

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT
Case No. 5:17-cv-194

MISTY BLANCHETTE PORTER, M.D.,)
)
 Plaintiff)
)
 vs.)
)
 DARTMOUTH-HITCHCOCK MEDICAL CENTER,)
 DARTMOUTH-HITCHCOCK CLINIC,)
 MARY HITCHCOCK MEMORIAL HOSPITAL,)
 and DARTMOUTH-HITCHCOCK HEALTH,)
)
 Defendants)

D E P O S I T I O N

of

MISTY BLANCHETTE PORTER, M.D.

Taken at the law offices of Downs Rachlin
Martin, PLLC, 67 Etna Road, Lebanon, New Hampshire on
Tuesday, June 11, 2019 commencing at 10:00 a.m. before
Sunnie Donath, RPR, LCR No. 159, a Licensed Court
Reporter within and for the State of New Hampshire.

1 **APPEARANCES:**

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6 On behalf of the Plaintiff

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10 On behalf of the Plaintiff

11 DONALD W. SCHROEDER, ESQUIRE
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16 On behalf of the Defendants

17
18 Also Present: Scott Monahan, DHMC

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3	Misty Blanchette Porter, MD			
4		Atty. Schroeder	5	8

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1 S T I P U L A T I O N S

2 It is hereby stipulated and agreed by and
3 between the attorneys of record for the respective
4 parties hereto as follows:

5 1. That the testimony of MISTY BLANCHETTE
6 PORTER, M.D. may be taken pursuant to the Federal Rules
7 of Civil Procedure, and treated as if taken pursuant to
8 notice and order to take depositions and that all
9 formalities of notice and order are waived by the
10 parties, and the signatures to the stipulation are in
11 like manner waived;

12 2. That all objections except as to matters of
13 form are reserved until the deposition or any part
14 thereof is offered in evidence;

15 3. That the deposition may be signed by the
16 said MISTY BLANCHETTE PORTER, M.D. before any notary
17 public.

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20 * * * * *

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1 MISTY BLANCHETTE PORTER, M.D.,
2 duly sworn to tell the whole truth, and, nothing but
3 the truth, deposes and says as follows:

4 ATTORNEY SCHROEDER: So all objections as to
5 form. All other objections reserved until the time of
6 trial. Do you want to do read and sign, waive notary?

7 ATTORNEY VITT: Sure.

8 EXAMINATION BY ATTORNEY SCHROEDER

9 Q. Could you please state your name for the record?

10 A. Misty Blanchette Porter.

11 Q. Okay. And do you mind if I call you Dr. Porter?

12 A. That's fine.

13 Q. Okay. My name is Don Schroeder. We met briefly
14 beforehand. I'm joined here by Jessica Joseph, who is
15 my colleague on this matter. We represent all of the
16 Dartmouth-Hitchcock entities that are defendants in
17 this case, and, if I refer to Dartmouth-Hitchcock, I'll
18 just, it will refer to all the entities unless I
19 specify, okay?

20 A. Okay.

21 Q. I'm also joined by Scott Monahan, who is with
22 Dartmouth-Hitchcock as well.

23 Have you ever been deposed before?

24 A. Yes.

25 Q. Okay. How many times?

1 A. Twice.

2 Q. Could you briefly describe for me the first time
3 you were deposed?

4 A. When I was a chief resident.

5 Q. What were the circumstances relating to that?

6 A. There was a patient who claimed chronic hip pain
7 as a result of a vaginal hysterectomy that was
8 performed.

9 Q. Okay. And was there a trial?

10 A. No.

11 Q. And when was that deposition?

12 A. I would have been a chief in '92. '92, '93.

13 Q. And what was the outcome of that case?

14 A. It was dropped.

15 Q. No settlement?

16 A. None.

17 Q. The second time you were deposed?

18 A. When I was on staff at Dartmouth-Hitchcock.

19 Q. And when was that?

20 A. Would have been roughly '95.

21 Q. Okay. So the, and what were the circumstances
22 related to that?

23 A. A baby that was born with a neurologic disorder
24 that I had delivered by a c-section.

25 Q. And was that, did that matter go into litigation?

1 A. No.

2 Q. And how did it come that you were deposed in that
3 case?

4 A. I was the attending physician who delivered the
5 baby.

6 Q. Okay. And, when you, when you said you were
7 deposed but it wasn't in litigation, how, what were the
8 circumstances that the deposition occurred?

9 A. Um, please restate your question.

10 Q. Sure. If there was a deposition, it would have
11 been in the context of a litigation.

12 A. Yeah.

13 Q. So I'm -- but you said there wasn't a litigation.

14 A. Oh, I misunderstood your question.

15 Q. That's okay.

16 A. I thought you asked if it went to trial.

17 Q. No. That was the first case. This one was
18 whether or not this matter proceeded to litigation.

19 A. It was a, it was a -- yes, there was litigation.

20 Q. And you were deposed in that case?

21 A. Yes.

22 Q. And what happened in that case? Was there a
23 settlement? Did it go to trial?

24 A. It was dropped.

25 Q. It was dropped? No settlement?

1 A. No.

2 Q. Since it was a long time ago when you were last
3 deposed, it may help if I just kind of go over some of
4 my ground rules, which are the ground rules that you
5 probably were informed of by your counsel if that's
6 okay. First one, and you're doing a great job with
7 this -- is not speaking over me, and I will try my
8 hardest not to speak over you so that the court
9 reporter can take down our answers, okay?

10 A. Okay.

11 Q. The next one is to make sure that you verbalize
12 your answers. Because, even though we're sitting in
13 close proximity, I need to make sure that the court
14 reporter takes down your answers, and you can't nod or
15 gesture and do things like that, okay?

16 A. Okay.

17 Q. If you answer a question, I'll assume that you've
18 answered it to the best of your ability and truthfully
19 and in a complete fashion. Is that fair?

20 A. Okay.

21 Q. If you can, try to differentiate between whether
22 or not you don't know something and whether or not you
23 don't recall something. So, for instance, you may not,
24 may not have any knowledge of what I did last week, but
25 you may not recall what you did last week. Do you

1 understand?

2 A. I will ask for clarity.

3 Q. Okay. Please do. Did you get a good night's
4 sleep last night?

5 A. Yes.

6 Q. Are you taking any medication that would affect
7 your ability to testify truthfully today?

8 A. No.

9 Q. If, at any point -- and this is not a marathon
10 session. So, if, at any point, you want to take a
11 break, we'll take a break. Just let me know. I just
12 want you to finish answering the question that's
13 pending if there is one pending. If you don't
14 understand a question, please let me know, and I will
15 try to rephrase it so that you understand it, okay?

16 A. Okay.

17 Q. All right. I want to ask you a few questions
18 about matters relating to some of your claims in this
19 case, one of which relates to your claim of disability
20 discrimination. And so my first question is, Are you
21 currently disabled in any manner?

22 A. No.

23 Q. And were you ever disabled?

24 A. Yes.

25 Q. Okay. And what was the nature of that disability

1 specifically?

2 A. I had a cerebrospinal fluid leak.

3 Q. A CSF leak?

4 A. Yes.

5 Q. And, other than the circumstances relating to the
6 CFS, CSF leak, have you ever had any other disability?

7 A. Define disability.

8 Q. Well, a physical or mental impairment that
9 substantially limited a major life activity. So it's
10 not a trick question. I mean, when you were working at
11 Dartmouth-Hitchcock, were you, did you ever have a
12 disability which required short-term disability or
13 long-term disability leave other than the circumstances
14 relating to the CSF leak?

15 A. Yeah, I had a -- I was out on short-term with a
16 hip arthroscopy.

17 Q. And when was that?

18 A. I don't remember the year exactly. It was three
19 to five years beforehand.

20 Q. Before the CSF leak?

21 A. Yeah.

22 Q. Okay. And, other than that, the, the -- and let
23 me ask, rephrase this question. The circumstances
24 relating to the CSF leak, was that the disability that
25 serves as the basis for your claim of disability

1 discrimination in this case?

2 A. Yes.

3 Q. Do you recall when you first developed symptoms or
4 any condition relating to the CSF leak?

5 A. Yes, in November 2015.

6 Q. Okay. And what were the symptoms that you were
7 experiencing in November of 2015 relating to the CSF
8 leak?

9 A. A horrible orthostatic headache. I couldn't sit
10 up.

11 Q. Can you -- and I realize you've been a physician
12 for a really long time and you're going to use some
13 words that I don't know. You said something about
14 headache, orthostatic?

15 A. Yes.

16 Q. What does that mean?

17 A. From laying down to sitting up, I had a
18 debilitating, horrible headache.

19 Q. And would that happen any time you went from a
20 laying-down position to a sitting-up position?

21 A. When I was first ill, absolutely.

22 Q. And, when you first started -- were there any
23 other symptoms associated with your condition at that
24 point other than this debilitating headache that you
25 would get from sitting up that you recall?

1 A. There were multiple, and I reserve the right to
2 supplement my answer, but I will --

3 Q. And just, yeah, just so we're clear, if, at some
4 point, you answer a question -- because I think I
5 understand what you're trying to say, and, if I'm not,
6 then let me know. If you answer a question and then,
7 later on today or at another occasion when we're
8 deposing you in your deposition, you, you determine
9 additional information related to a previous answer,
10 certainly, let me know, and we'll go back and complete
11 that answer. Is that what you're trying to get across
12 as far as supplementing your answer?

13 A. Yes.

14 Q. Okay. Sorry to interrupt you. So and I just want
15 to get a sense of your condition back in that timeframe
16 of November 2015 and an understanding of the symptoms
17 that you were experiencing during that time.

18 A. Yeah. I had blurred vision that, that progressed
19 to complete double vision. I had hyperacusis, which
20 means sounds that are simple sounds like clinking of a
21 glass were extraordinarily painful. I had to walk
22 around the house with earplugs in and headphones on. I
23 had difficulty sleeping. I had horrible neck pain. I
24 had vertigo. I had nausea. I had a marked decreased
25 appetite. I had loss of depth perception over the

1 course of the next few weeks so that I couldn't tell
2 where the end of a sidewalk was to where the lines were
3 on a crosswalk without looking down.

4 Q. When you first developed these symptoms, how long
5 did it take before you, your treating physicians
6 figured out that it was the CSF leak that was causing
7 all these symptoms?

8 A. About three to four weeks.

9 Q. And, during that timeframe, were you going through
10 a battery of tests to determine and rule out other
11 issues?

12 A. Not initially. My primary care provider ordered
13 some blood work, and that was initial, and then, when I
14 developed double vision, they ordered an MRI, and it
15 took about three to four weeks to come to that.

16 Q. And is, when they did the MRI, is that the point
17 at which they determined that you were suffering from a
18 CSF leak?

19 A. Yes.

20 Q. And, with respect to your current status, have you
21 -- I'd asked you whether you're currently disabled, and
22 you said "no". Do you have any recurring symptoms or
23 any symptoms at all related to the CSF leak condition
24 that you had back in that timeframe?

25 A. So your question is do I have any symptoms that

1 relate to the CSF leak currently?

2 Q. Yes, .

3 A. No.

4 Q. Okay. When, if at all, were you informed that
5 you'd been completely healed with respect to the CSF
6 leak?

7 A. Dr. Tom Ward informed me that I was completely
8 healed.

9 Q. Tom Ward?

10 A. Yes, in May of 2016. He was markedly incorrect.

11 Q. When, if at all, were you informed that you were
12 completely healed?

13 A. The Mayo Clinic after my second surgery to correct
14 my CSF leak.

15 Q. And when was that?

16 A. My second surgery in September 2017.

17 Q. And at what point -- that was when the surgery
18 was. At what point, if at all, were you given an
19 either a clean bill of health or a full clearance to
20 work full time?

21 A. Not until the following, the next July or August
22 from my primary care doctor.

23 Q. And that would be July of '18?

24 A. I believe so.

25 Q. And who was your primary treating physician at

1 that point?

2 A. Dr. Adam Schwartz.

3 Q. And, since July of 2018 --

4 A. July, August, somewhere in there, yeah.

5 Q. Yeah. And, listen, I, let me be clear, and I
6 appreciate your exact, attempt to be as exacting as
7 possible, and that is appreciated. I understand that,
8 you know, we're dealing with events which were
9 obviously head trauma and also difficult events during
10 a period of a couple of years, so --

11 A. I'm going to correct you. It wasn't head trauma.

12 Q. Okay.

13 A. I'm going to correct you on that.

14 Q. Okay.

15 A. It was a cerebrospinal fluid leak.

16 Q. Okay. And it was an injury to your brain,
17 correct?

18 A. No.

19 Q. How would you characterize it?

20 A. It was a cerebrospinal fluid leak.

21 Dartmouth-Hitchcock gave me the diagnosis of head
22 trauma.

23 Q. Okay. I, I'm not trying to get in an argument
24 with you about --

25 A. I'm not arguing. I'm correcting you.

1 Q. Hold on. Let me finish. I'm not trying to get
2 into a characterization of what the condition was.
3 This is an, an employment case; it's not a medical
4 case, and so, if I use terminology that you don't
5 believe is accurate, I certainly want you to let me
6 know that, but I'm not trying to put words in your
7 mouth as to what the nature of it was. I understand it
8 was an injury to your brain, whether you call it an
9 injury or not, but this is -- I'm not trying to, um,
10 you know, put words in your mouth or try to
11 characterize your condition in any other way.

12 You tell me. How would you like me to
13 characterize your condition when we refer to it, that
14 specific condition?

15 A. It was a tear in the dura of my back.

16 Q. I'm sorry. You said Durham?

17 A. Dura, D-U-R-A.

18 Q. Of your back?

19 A. Yes.

20 Q. Okay. And that created a CSF leak?

21 A. Yes.

22 Q. Okay. And, if I refer to this condition as a CSF
23 leak, you understand what I'm talking about?

24 A. Yes.

25 Q. And in the, say, summer of 2018, July, August

1 timeframe, at that point, you were given a clean bill
2 of health regarding this condition; is that accurate?

3 A. Yes.

4 (Deposition Exhibit 1 marked.)

5 Q. Dr. Porter, I'm going to be showing you a series
6 of documents today, and I'm going to ask you to -- in
7 some cases, there will be multiple pages in a document.
8 I'll ask you to turn to certain pages to ask you
9 specific questions. So this is a document or documents
10 marked Porter Exhibit 1. They are a series of, of
11 leave-of-absence forms, and what I'd like you to do,
12 and we'll go through a series of them, but what I'd
13 like to do is go to the last few pages, and you'll see
14 at the bottom, and these are called Bates labels, and
15 I'm just pointing for the record to the number
16 sequence, if it says it at the bottom, that I'll point
17 you to those numbers.

18 So DH21638, if you could turn to that, and there's
19 one, two, three pages here which is titled "Notice of
20 Family/Medical Leave". It's DH21638 through DH21640.
21 Do you recall seeking, during the October, November
22 timeframe, family medical leave or application for
23 family medical leave?

24 A. In 2005?

25 Q. In 2015.

1 A. This is 2005.

2 Q. Oh, this is 2005?

3 A. Yes.

4 Q. So in 2005 is this related to the hip arthroscopy
5 or arthroscopic condition?

6 A. I don't recall.

7 Q. Okay.

8 A. This is November 2005.

9 Q. Right, and it said October 16, 2005 is when you
10 were notified. You don't recall the circumstances
11 related to that?

12 A. I don't recall.

13 Q. Okay. If you'd go back to, go back to the, let's
14 see, DH21632, do you see that?

15 A. Yes.

16 Q. Now, this has a -- it's a leave-of-absence form
17 that indicates that you went on a leave of absence
18 December 15th 2015. The expected return date initially
19 was February 1, 2016, but the actual return date below
20 is June, June 14, 2016. It, do you recall being on a
21 leave of absence for the period of December 15th 2015
22 to June 14th 2016?

23 A. This is not a form that I filled out, and I
24 returned partial to work. I believe the exact dates in
25 approximate are in the interrogatories.

1 Q. We'll go through them. I'm just trying to
2 pinpoint the time period of your leave of absence. At
3 some point, you, you started developing symptoms
4 related to the CSF leak in November 2015, correct?

5 A. Yes.

6 Q. And were you, as a result of those symptoms, were
7 you able to actually go to work during that timeframe?

8 A. I returned to work for, right after Thanksgiving
9 for a period of days, and then I returned to work in
10 early December.

11 Q. And then do you recall what precipitated you going
12 out on a leave of absence in the December of 2015
13 timeframe?

14 A. The MRI.

15 Q. Do you recall when that was?

16 A. December 14th or 15th.

17 Q. And, as a result of the MRI, is that when you
18 stopped going to work?

19 A. Yes.

20 Q. Okay. And, when you went out on leave in December
21 2015, was that pursuant to -- did you also fill out
22 forms relating to FMLA leave at that point?

23 A. I don't recall.

24 Q. Do you recall being approved for FMLA leave or --

25 A. Yes.

1 Q. Okay. In that timeframe?

2 A. Yes.

3 Q. Okay. And, as a result of that, you were given a
4 leave of absence for, at that point, an undetermined
5 amount of time because it wasn't clear when you were
6 coming back?

7 A. Correct.

8 Q. Okay. Do you recall, as a result of going out on
9 FMLA leave during that timeframe, December of 2015,
10 also applying for and receiving benefits under a
11 short-term disability policy?

12 A. Yes.

13 Q. Do you know how long a period of time you received
14 short-term disability benefits in that timeframe?

15 A. What I qualified for.

16 Q. Do you recall how long you qualified for it?

17 A. What was standard within Dartmouth-Hitchcock.

18 Q. I understand that. Do you recall what it was?
19 Because --

20 A. No.

21 Q. -- different STD policies have different
22 standards.

23 A. Right. No.

24 Q. Would it, would it surprise you if it was six
25 months?

1 A. No.

2 Q. Who, if anyone, were you dealing with at
3 Dartmouth-Hitchcock related to your leave of absence in
4 that timeframe to make sure that it was approved and
5 that you applied for short-term disability benefits and
6 received approval for FMLA leave?

7 A. Again, owing to the right to supplement my answer,
8 I worked through my primary care doctor.

9 Q. Who was that person at the time?

10 A. Brooke Herndon.

11 Q. And how long did she remain your primary care
12 physician?

13 A. Until my termination at Dartmouth.

14 Q. And when was that?

15 A. When was --

16 Q. Your termination at Dartmouth-Hitchcock.

17 A. June 3rd.

18 Q. You're smiling at me as if I'm asking you, like, a
19 trick question. Is that --

20 A. I think you know when I was terminated, Mr.
21 Schroeder.

22 Q. Right. Well, here's how this is going to go,
23 Dr. Porter. I'm going to ask you questions. You're
24 going to answer them. That's, we need to create a
25 record for this case, and so I'm going to ask you

1 questions politely, in a respectful manner, and I'm
2 going to need you to answer them, regardless of whether
3 or not I may know the answer to them, okay? Yes?

4 A. Okay.

5 Q. Okay. You need to respond. Earlier, you
6 mentioned that, at some point prior to June of 2016,
7 you returned in some capacity to work at
8 Dartmouth-Hitchcock?

9 A. Yes.

10 Q. And you mentioned your interrogatory responses,
11 but I just want to ask your recollection first, and, if
12 we need to go to the interrogatory responses, we will.
13 Do you recall when you first began working again in
14 2016 at Dartmouth-Hitchcock after being on leave for
15 your CSF leak?

16 A. Not the exact date, no.

17 Q. Okay. Do you recall?

18 A. I remember the circumstances. I don't remember
19 the exact date.

20 Q. How did it come to be that you returned to work in
21 that timeframe earlier than June 2016? What led you to
22 be coming back to work?

23 A. There were the circumstances by which I returned.
24 There were multiple patients who were waiting for me to
25 return to provide their infertility care.

1 Q. Was that the precipitating reason for you
2 returning in a limited capacity during that timeframe?

3 A. Yes.

4 Q. Do you recall how many patients there were that --
5 and this is rough justice on the numbers -- but how
6 many patients, your patients, that would have been in
7 the queue, so to speak, for your advice, counsel, and
8 treatment?

9 A. Can you clarify your question?

10 Q. Yeah. Yes, I can. During this timeframe in early
11 2016, April, May, sometime in there, do you recall how
12 many patients were waiting for you to return?

13 A. There were four or five couples who had delayed
14 their plans for conception waiting for me to return,
15 and there were multiple other gynecologic patients and
16 patients in my general practice that had been waiting
17 for me to return.

18 (Deposition Exhibit 2 marked.)

19 Q. Okay. Showing you a document that's been marked
20 Exhibit 2, and, if you could just review that, it is
21 titled "Plaintiff's Response to Defendant
22 Dartmouth-Hitchcock Medical Center's First Set of
23 Interrogatories Propounded on Plaintiff Misty
24 Blanchette Porter".

25 So one of the questions you had asked me about or

1 you answered was that you recall going back sometime in
2 2016 to Dartmouth-Hitchcock, returning in a limited
3 capacity, and you said it's in the interrogatory
4 responses. So I just want you to turn to Interrogatory
5 Number 3, which asks you about the, the disability you
6 developed in November 2015, and it goes on on Page 2, 3
7 and 4, and I'm going to ask you a series of questions
8 related to that, so I'd just ask you, if you would read
9 Interrogatory Number 3 to yourself and your response,
10 and I will ask you some additional questions related to
11 that time period. Just let me know when you're
12 finished.

13 (Brief pause.)

14 A. Okay.

15 Q. Okay. Before I jump into the questions on the
16 specific circumstances of your return in, to
17 Dartmouth-Hitchcock in 2016, I just want to ask you if
18 you can turn to Page 27 and confirm for me that that's
19 your signature?

20 A. Yes.

21 Q. Okay. And you signed that on April 20th 2018,
22 correct?

23 A. April 20th 2018.

24 Q. Okay. Now, going back to Interrogatory Number 3,
25 in Exhibit 2, you recount in here that you started to

1 work on a very part-time basis starting in early April
2 2016, correct?

3 A. Correct.

4 Q. And, for the time period December 15th,
5 thereabouts, of 2015 up until that time period in April
6 2016, you were not working at all, correct?

7 A. I wasn't physically present at Dartmouth-Hitchcock
8 for work.

9 Q. You weren't physically present, but you weren't
10 working -- in addition, you weren't returning to work
11 at all during that timeframe, right?

12 A. Correct.

13 Q. And, according to your interrogatory responses,
14 you returned to work in April 2016 working a maximum of
15 2 half days per week, consisting of 90 minutes of work,
16 a 30-minute break, and then another 60 minutes of work
17 and then returning home with 2 days off between
18 working, correct?

19 A. Correct.

20 Q. So, during the April and May time period, you were
21 working approximately five hours a week?

22 A. Five to seven, yes.

23 Q. Okay. Why do you say five to seven? What's the
24 basis for that?

25 A. It's an estimate of what I was doing.

1 Q. Okay. And were you physically located at
2 Dartmouth-Hitchcock doing work during those time
3 periods?

4 A. Yes.

5 Q. Okay. And then in late, mid-June you went from
6 five to seven hours of work to about twelve hours per
7 week, correct?

8 A. Correct.

9 Q. Now, during this time period, so April, five to
10 seven hours; May, five to seven hours per week, right?

11 A. Correct.

12 Q. Mid-June 2016, you increase your work hours to
13 about twelve hours per week, right?

14 A. Correct.

15 Q. Now, during the April, May, June time period, do
16 you recall that you were receive, also receiving
17 short-term disability benefits during that time?

18 A. Yes.

19 Q. Okay. Were you authorized by any of your treating
20 physicians to do any work during that time period, even
21 though you were on short-term disability?

22 A. Yes.

23 Q. By whom?

24 A. Brooke Herndon.

25 Q. And how were you authorized by Brooke Herndon to

1 work during that timeframe?

2 A. In writing.

3 Q. And she authorized you to work in some limited
4 capacity?

5 A. Yes.

6 Q. Okay. And were you able to actually work in that
7 limited capacity throughout that time period?

8 A. To my memory, yes.

9 Q. At what point did you start suffering from
10 dizziness, headaches, fatigue, and other symptoms as
11 you stated in your interrogatory response in that
12 timeframe?

13 A. Since November of 2015, it was intermittent,
14 persistent.

15 Q. So the symptoms that I asked you about up front
16 about the CSF leak, the vertigo, the issues regarding
17 sound, the dizziness, the nausea, lack of appetite, did
18 that carry forward from November of 2015 up until June
19 of 2016?

20 A. They were intermittent, waxing and waning, but I
21 had persistent symptoms, yes.

22 Q. And I'm just trying to clarify. On a daily basis
23 would you have them intermittently, or would it be a
24 weekly basis or a couple of days would go by without
25 any symptoms, or was it just intermittently throughout

1 the day it would come and go?

2 A. The, the most severe symptoms improved initially.

3 It was time, as we talked about orthostatic, it was
4 time upright. I always had the headaches. I always
5 had some dizziness. They would get nausea. It would
6 get markedly worse the longer I was standing up.

7 Q. So the only thing that would relieve it during
8 that time period was being prone?

9 A. Yes.

10 Q. You returned to work sometime in the June
11 timeframe where you were working approximately twelve
12 hours a week, although you were limited to one task at
13 a time, correct?

14 A. That was the recommendation.

15 Q. And that was the recommendation from Dr. Herndon
16 or someone else?

17 A. My occupational therapist from the neurocognitive,
18 nurse practitioner, my team of providers.

19 Q. Okay. And so, at that point in the April, May,
20 June timeframe, you had a team of, of medical providers
21 assisting with dealing with your condition?

22 A. Yes.

23 Q. And, according to your interrogatory answer, in
24 June of 2016 you were limited to one task at a time
25 without handling complex cases or working in the OR.

1 "I was able to teach, handle IVF procedures, read
2 ultrasounds, and provide ultrasound referrals and
3 consults. I still suffered from dizziness, headaches,
4 fatigue, and other symptoms." Is that accurate?

5 A. That's accurate.

6 (Deposition Exhibit 3 marked.)

7 Q. Okay. Showing you a document that's been marked
8 Porter Exhibit 3, if you could, please review that, and
9 let me know when you're finished reviewing it.

10 A. Okay.

11 Q. Now, what, what's the basis for your belief that
12 you were working five to seven hours a week in April
13 and May of 2016? Do you have any records to support
14 that other than your recollection?

15 A. Yeah, you have them. You have a copy them, my
16 calendar. I kept a, I kept a calendar, and you have
17 copies of it.

18 Q. So the calendar would be a calendar of dates when
19 you went to work?

20 A. Yes.

21 Q. Did you actually track your hours during that
22 timeframe?

23 A. Yes.

24 Q. So, on any given day, it will show how many hours
25 you worked?

1 A. No. It's just the general when I was there,
2 estimates, not exact.

3 Q. Okay. I'm just -- I'm not sure how -- I
4 understand that, you know, doctors have to, are tracked
5 by RVUs, right? So it's a different mechanism than
6 time records. You didn't keep time records in the
7 normal course, did you?

8 A. Did I punch a time clock? No. Did I keep an
9 estimate of what I was working? Yes.

10 Q. Okay. And the estimate would be just in the
11 calendar, correct?

12 A. Yes.

13 (Deposition Exhibit 4 marked.)

14 Q. Okay. So keep that document handy. I'll show you
15 a document we'll mark Exhibit 4, and we're going to go
16 -- we're going to have that document back and forth,
17 and I'm not going to ask you to review the whole
18 document right now, but I'm going to ask you to
19 specifically go to certain pages to see if it refreshes
20 your recollection of certain events.

21 If you would go to paragraph, Page 17, now, this
22 document that I just handed you is, is the First
23 Amended Complaint in this case, and you've seen this
24 before, correct?

25 A. Yes.

1 Q. You reviewed it, correct?

2 A. Yes.

3 Q. If you go to Paragraph 43, it states, "In or about
4 December 2015, Dr. Blanchette Porter took a leave of
5 absence under the FMLA leave, Family Medical Leave Act,
6 and on December 15, 2015 she went on short-term
7 disability. On June 14, 2016 she went on long-term
8 disability". Is that an accurate statement?

9 A. Yes.

10 Q. Okay. And then it says, Paragraph 44, "On June
11 15, 2016, Dr. Blanchette Porter was able to return to
12 work on a part-time basis". You see that?

13 A. Yes.

14 Q. When did you first recall then -- there's no
15 mention in here about working in April or May of 2016.
16 It says that you returned to work on a part-time basis
17 in June of 2015, and I'm just trying to determine which
18 one's correct.

19 A. I'd have to refer to my calendar, but I believe I
20 worked part time earlier than that.

21 Q. In April and May?

22 A. Again, I would defer to my calendar.

23 Q. Okay. With respect to the rest of, additional
24 parts of Paragraph 44, it says, "And on July 29, 2016,
25 the chair of the department gave permission for

1 Dr. Blanchette Porter to do additional work remotely
2 from her home in Vermont", and then it talks about the
3 things that you did while working from home, correct?

4 A. Correct.

5 Q. Okay. And that was the first point at which you
6 did any work from home or were approved to work from
7 home by the chair of the department, right?

8 A. In writing, yes.

9 Q. Well, it doesn't say in writing, right? It says
10 gave permission.

11 A. But you also said you weren't going to hold me to
12 the exact, Mr. Schroeder.

13 Q. Well, I'm going to hold you to the exact if those
14 are your words. I mean, we're looking at -- I'm trying
15 to pinpoint. That's the timeframe when she gave you
16 permission to work from home, whether verbally or in
17 writing? It's an exact date that's listed there. I
18 didn't list that date.

19 A. I don't recall.

20 Q. If you go back to the document that's been marked
21 Exhibit 3 and put that in front of you just so you can
22 review it, do you recall this document marked Exhibit
23 3?

24 A. Yes.

25 Q. Okay. What is it?

1 A. It's a letter from Deb Fournier, who was a part of
2 my care team, about my work return.

3 Q. Okay. And, according to this document, this is
4 dated July 19th 2016, correct?

5 A. Yes.

6 Q. And it lists a series of accommodations that they
7 are seeking for you on your behalf, correct?

8 A. Correct.

9 Q. And do you recall giving this document to
10 Dr. DeMars, the chair of the department?

11 A. I did.

12 Q. Okay. And the, I just want to walk through each
13 of the requested accommodations, but, before I do that,
14 one of the things I asked you about going back to the
15 Complaint for a second was the fact that you were on
16 short-term disability leave, and then you went right to
17 long-term disability leave according to your Complaint,
18 Exhibit 4, specifically Paragraphs 43 and 44. Is that,
19 is that accurate?

20 A. Yes.

21 Q. Okay. So, during that timeframe when you were
22 approved for long-term disability benefits, do you know
23 how much you were compensated in terms of the benefit
24 that you received?

25 A. No.

1 Q. Do you know -- you don't know what percentage of
2 your salary you received?

3 A. From short-term to long-term, I, I would have to
4 defer back to the paperwork --

5 Q. Okay.

6 A. -- to look at it specifically.

7 Q. Was it some percentage of your salary that you
8 received --

9 A. Yes.

10 Q. -- like, 60 percent or 65 percent?

11 A. As an estimate, yes.

12 Q. Okay. When you were approved for long-term
13 disability, do you know what steps needed to be taken
14 in order to get approved for long-term disability
15 benefits?

16 A. I met with my primary care provider. I met with
17 my team. I filled out extensive paperwork. My, my
18 providers filled out extensive paperwork. I had
19 conversations with Dr. DeMars about it, and I needed to
20 speak with the appropriate identified individuals for
21 the disability coordinators, the businesses, the
22 companies.

23 Q. Oh, the Hartford or Unum, the insurance providers
24 of that policy?

25 A. Yes.

1 Q. Okay.

2 A. I had to have extensive conversations with them.

3 Q. Would it be fair to say that that was an extensive
4 application process in order to qualify for long-term
5 disability benefits?

6 A. It was a process. Whether you define it as
7 extensive or not would be to your own belief.

8 Q. Well, did you find it to be extensive? You said
9 you had to meet with your providers, you had to meet
10 with the insurance policy people as well. You had a
11 series of meetings related to that, correct?

12 A. The entire process of continuing to qualify for my
13 disability was an extensive process.

14 Q. And were you approved for LTD benefits upon your
15 first attempt at qualifying?

16 A. Yes.

17 Q. And you went immediately from short-term
18 disability benefits to long-term disability benefits,
19 correct?

20 A. Yes.

21 Q. Okay. And were you, in order to qualify for
22 long-term disability benefits, did the policy require
23 that you were permanently disabled at the time?

24 A. Define permanently disabled.

25 Q. What was the, what was the threshold for

1 qualifying for LTD benefits?

2 A. I'd refer to the policy.

3 Q. Well, what do you recall other than the policy?

4 What was the, what was the standard that needed to be
5 met in terms of your condition to qualify for long-term
6 disability?

7 A. I don't recall.

8 Q. Either way, though, the first attempt you, you
9 made to qualify for long-term disability, you were
10 approved for benefits, correct?

11 A. Correct.

12 Q. And your long-term disability benefits started in
13 June of 2016?

14 A. Correct.

15 Q. And how long were you on long-term disability
16 benefits thereafter?

17 A. Again, I'd refer back to the records.

18 Q. Well, do --

19 A. I had at least partial until the July, August that
20 we discussed already.

21 Q. When you say "at least partial", to July, August
22 of 2018?

23 A. That summer, yes.

24 Q. Okay. Do you know when it went from full LTD
25 benefits down to a lesser amount?

1 A. I don't remember.

2 Q. Okay. If you go back to the document marked
3 Exhibit 3, if you could put that in front of you, now,
4 this is dated July 19, 2016, correct?

5 A. Correct.

6 Q. And this is from one of your team members, Deb
7 Fournier, correct?

8 A. Correct.

9 Q. And it has a list of recommended accommodations
10 going forward, correct?

11 A. Correct.

12 Q. The first one was a protected, quiet, private
13 office space, right?

14 A. Correct.

15 Q. And did Dartmouth-Hitchcock provide that for you?

16 A. Initially, but it was repeatedly violated as we
17 moved forward.

18 Q. And how was it repeatedly violated?

19 A. Initially, the guidelines were encouraged by
20 Dr. DeMars.

21 Q. Okay. Well, let's start there for -- oh, go
22 ahead. Finish your answer.

23 A. Moving forward over the next days, weeks, months,
24 they were repeatedly violated, and, when I went to
25 Dr. DeMars and Heather Gunnell with requests to enforce

1 these, they declined.

2 Q. Okay. We'll, we'll go back to that topic later,
3 but let me ask you about the recommendations that are
4 contained in here. The second one -- and they were
5 initially, you initially sought approval for these from
6 Dr. DeMars, correct?

7 A. Yes.

8 Q. And, in fact, she approved these recommended
9 accommodations, right?

10 A. She approved them, but she didn't enforce them
11 over multiple weeks and days.

12 Q. Well, at this point -- well, let's just go through
13 the accommodations first. Initially, she approved
14 them, correct? Is that a fair statement?

15 A. Yes.

16 Q. Okay. So the first one is a protected, quiet,
17 private office space. The second one is limited
18 duties, very well-described limited duties, limited
19 clinical duties to no more than twelve hours per week.
20 So that's, that's one of the requested accommodations,
21 correct?

22 A. Correct.

23 Q. And that's as of July of 2016, mid-July 2016,
24 correct?

25 A. Correct.

1 Q. And were you given that accommodation?

2 A. Again, I was repeatedly requested to do more.

3 Q. You were requested to do more, but did you
4 maintain, as you said in your interrogatory responses,
5 about twelve hours a week? Even if you were asked to
6 do more, did you maintain about twelve hours per week?

7 A. In what timeframe, Mr. Schroeder?

8 Q. The June, July, August 2000 timeframe.

9 A. I would, I went with my recommendations from my
10 providers.

11 Q. Right, and you --

12 A. And I would refer back to my calendar, but it was
13 a progressive increase.

14 Q. Well, you went out on leave in August of 2016,
15 correct?

16 A. Back out.

17 Q. Back out?

18 A. Yes.

19 Q. Right. And, according to this, your limited
20 clinical duties to no more than twelve hours a week,
21 that request for accommodation was July 19th 2016,
22 correct?

23 A. This initial request --

24 Q. Yes.

25 A. -- was July 19th 2016 --

1 Q. Right.

2 A. -- yes.

3 Q. And what about the additional parts of limited
4 duties, no main OR or CS, OSC cases; was that
5 accommodated?

6 A. Yes.

7 Q. No outpatient new patient consults?

8 A. It's Dr. DeMars's writing to the right of that.

9 Q. I was going to ask you about that.

10 A. Yes, "Or as requested/vetted by Dr. Porter".

11 Q. So was that after a discussion with Dr. DeMars
12 that you would, is a clarification?

13 A. It was a clarification.

14 Q. Okay. And was that accommodation given?

15 A. She requested that I have specific patients that I
16 follow at that point that were new to me.

17 Q. Okay. And you were okay with that?

18 A. Yes.

19 Q. Okay. What about the limited duty of no call?

20 A. I was not written in the call schedule, but I took
21 specific call for specific couples going through.

22 Q. And was that at your own desire, intention?

23 A. It was at her request.

24 Q. At whose request?

25 A. Dr. DeMars.

1 Q. So you weren't on the call schedule?

2 A. I was not written into the call schedule. I came
3 in to take care of specific couples.

4 Q. And was that during the twelve hours or so per
5 week?

6 A. Yes.

7 Q. You weren't on call, so to speak?

8 A. I was on call for those couples, yes.

9 Q. But you were not on -- so if, if, there's a
10 schedule, right, that has who's going to be on for a
11 particular weekend; is that correct?

12 A. Correct.

13 Q. And is it for nighttime as well?

14 A. Yes.

15 Q. Okay. You were never on the on-call schedule that
16 other physicians had to be listed in?

17 A. I wasn't written into the call schedule, no.

18 Q. It then says no teaching responsibilities as part
19 of the limited duties. Was that approved?

20 A. It was approved initially.

21 Q. Well, in your interrogatory responses you said you
22 were able to teach.

23 A. Again, it was progressive, Mr. Schroeder.

24 Q. Okay. So it was, when you say approved initially,
25 to the extent that you then did it, you did it on your

1 -- was that of your own --

2 A. We didn't write one of these documents every time
3 my responsibilities changed.

4 (Indicating Exhibit 3.)

5 Q. So, to the extent that you ramped up some of your
6 responsibilities like being able to teach, that was
7 what you were able to do at that particular time?

8 A. Correct.

9 Q. And it says, "Work return will be prolonged and
10 gradual in terms of both multitasking and complexity
11 (Phases of return as outlined by Greg Morneau and
12 shared with Dr. DeMars)", and was that accurate?

13 A. Yes.

14 Q. The third bullet point, major bullet point --
15 there's six bullet points here, black bullet points.
16 The third one is paced activities. Do you know what
17 that accommodation was?

18 A. It, it's -- no.

19 Q. With respect to -- do you recall ever
20 understanding what that meant?

21 A. It was inferred I would gradually increase my
22 responsibilities and that I would have breaks.

23 Q. Okay. And did you get breaks?

24 A. Again, initially approved, repetitively violated.

25 Q. When you say "repetitively violated", what do you

1 mean by that, or repeatedly violated?

2 A. Repeatedly violated, the, there were chunks of
3 time that I took in between to go into my office and
4 close the door for rest. It was very common and
5 frequent that Dr. Seifer would come in even when I told
6 him I was resting and refuse to leave.

7 Q. With respect to this list of accommodations, and I
8 want to finish 5 and 6 first. So the fifth one is
9 ergonomic accommodations. Did you receive any of
10 those?

11 A. No.

12 Q. Did you seek them?

13 A. No.

14 Q. Then it says Number 6, and there's a star there,
15 and, by the way, the handwriting below -- the
16 handwriting to the side of the page you attributed to
17 Dr. DeMars. Is the handwriting below that Dr. DeMars's
18 as well?

19 A. Yes.

20 Q. Okay. And Number 6 was, "All work-related emails
21 should be completed while at the office (no work emails
22 from home)". Do you see that?

23 A. Yes.

24 Q. Okay. And then there's a request for
25 clarification that there -- it says, "Request

1 clarification that there is no expectation that
2 Dr. Porter must respond to emails at home, but that as
3 part of admin that she could chose to do some work at
4 home or complete emails at home". Is, did I read that
5 accurately?

6 A. Yes.

7 Q. Okay. And was that a, a clarification that you
8 agreed on with Dr. DeMars in July 2016?

9 A. That I could choose to do some work at home, yes.

10 Q. Okay.

11 ATTORNEY VITT: Take a quick break, Don?

12 ATTORNEY SCHROEDER: Absolutely.

13 (A recess was taken from 11:11 a.m. to 11:20 a.m.)

14 BY ATTORNEY SCHROEDER:

15 Q. When, and, just looking at Exhibit 3, which is the
16 letter dated July 19th 2016, so that was the timeframe
17 going forward that you would be working limited
18 clinical duties to no more than twelve hours a week.
19 That's when you met with Dr. DeMars, correct?

20 A. Yes.

21 Q. Okay. And was it a long meeting with Dr. DeMars,
22 short meeting? Was it more than one meeting?

23 A. I don't recall.

24 Q. Did you -- was Dr. DeMars accepting of the
25 recommended list of accommodations when you met with

1 her?

2 A. She was accepting. She didn't enforce them.

3 Q. Okay. But at that meeting did she, was there any
4 pushback from Dr. DeMars about any of the
5 accommodations that you wanted?

6 A. She was accepting, but she didn't enforce them.

7 Q. Okay. And, when you say she didn't enforce them,
8 this is in mid to late, well, July 19th, thereabouts.
9 Do you know how it was communicated to anyone within
10 the REI division that there were certain accommodations
11 that you would be given in your return to work?

12 A. In my recollection?

13 Q. Yes.

14 A. She sent out an email to members of the
15 department. She had conversations or a conversation
16 with Dr. Seifer.

17 Q. And how do you know that?

18 A. She told me.

19 Q. And what do you recall Dr. DeMars told Dr. Seifer
20 which she then relayed to you?

21 A. She just told me she had a conversation with him.

22 Q. To talk about the accommodations that you needed
23 in your return to work?

24 A. Yes.

25 Q. Okay. Did you share this -- and this a, the

1 document that we were just going over is one that has
2 handwriting on it from Dr. DeMars, correct?

3 A. Yes.

4 Q. And you went over this with Dr. DeMars. Did you
5 specifically go over it with anyone else at
6 Dartmouth-Hitchcock?

7 A. I don't recall.

8 Q. You mentioned that Dr. DeMars met with Dr. Seifer.
9 Is there -- did you meet with Dr. Seifer to go over
10 your list of accommodations?

11 A. I don't recall.

12 Q. When you say Dr. DeMars did it with Dr. Seifer and
13 you remember that because she told you about it, does
14 that in any way refresh your recollection as to whether
15 or not you had a separate conversation with him at any
16 point?

17 A. I had a, I had a conversation with him, yes, about
18 my limitations and restrictions both by phone and at
19 work.

20 Q. And what timeframe was that?

21 A. Over the course of months, when I first came back
22 and repeatedly multiple times when he was calling me
23 after hours and in my office repeatedly and following
24 me down the hallway and in ultrasound interrupting my
25 work flow.

1 Q. And, when he was interrupting you or calling you
2 after hours, was he seeking either your advice or
3 counsel or consultation on, on a matter related --

4 A. Yes.

5 Q. -- to REI?

6 A. Yes.

7 Q. Now, during this timeframe in late July 2016, were
8 you still experiencing symptoms related to your CSF
9 leak?

10 A. Yes.

11 Q. Was that affecting your ability to work?

12 A. Can you clarify your question?

13 Q. Yes. As I understand it, the, the symptoms you
14 were experiencing would be intermittently very
15 debilitating.

16 A. Yes.

17 Q. And, as a result of that, was that impacting your
18 ability to perform your essential functions of your
19 job, even in a reduced capacity?

20 A. Can you break that question apart for me?

21 Q. Sure. During this timeframe, July and August
22 2016, you were experiencing the same symptoms we talked
23 about earlier related to the CSF leak, correct?

24 A. Some of them, yes.

25 Q. Okay. Some of them? And, as a result of that,

1 was that impacting your ability to do your job?

2 A. How would you describe "impact your ability to do
3 your job" is my question.

4 Q. Well, did you have to leave work early? Did you
5 have to stop doing something because you were
6 symptomatic?

7 A. I worked the prescribed hours.

8 Q. Okay. And the prescribed hours were twelve hours
9 a week, correct?

10 A. Yes.

11 Q. Did you ever share this document, Porter Exhibit
12 3, with anyone else other than Dr. DeMars?

13 A. I don't recall this specific document.
14 Accommodations such as this I shared with my secretary.

15 Q. Who is that?

16 A. Donna Bedard.

17 Q. So, other than -- and you know you talked to
18 Dr. DeMars about it because she has handwriting on the
19 document, correct?

20 A. Yes.

21 Q. So the two people you spoke to specifically that
22 you do recall are Donna Bedard and Dr. DeMars, right?

23 A. And I also spoke with Dr. Seifer about them.

24 Q. Right, but you didn't give him a copy of this
25 document, right?

1 A. Not that I recall.

2 (Deposition Exhibit 5 marked.)

3 Q. I'm showing you a document, Dr. Porter, marked
4 Porter Exhibit 5 and ask you to please review it and
5 let me know when you're finished.

6 A. I'm done.

7 Q. In reviewing the document marked Porter Exhibit 5,
8 does this refresh your recollection that your treating
9 physician said that you would not be able to work due
10 to increased symptoms despite the accommodations?

11 A. Dr. Herndon's opinion was, was such.

12 Q. Right. But is this consistent with what happened
13 at the time, that you were suffering from increased
14 symptoms in spite of accommodations?

15 A. Persistent symptoms.

16 Q. Okay. Now, it also says in here, quote, "Dr.
17 Porter has no capacity to fulfill her work
18 responsibilities and is now scheduled for additional
19 testing and consultation regarding her condition",
20 period.

21 This is approximately three weeks after the July
22 19th letter, correct?

23 A. Correct.

24 Q. So for about three weeks you were working up to
25 twelve hours a week, and, at that point, the symptoms

1 were such that you could not work any longer?

2 A. It wasn't the symptoms that precipitated this
3 letter.

4 Q. What precipitated this letter?

5 A. An appointment with a new neurologist.

6 Q. Okay. Well, this letter -- and why do you say
7 this letter was precipitated by an appointment with a
8 new neurologist?

9 A. Tom Ward retired having told me that I was healed
10 and could return to work. I went in in June to
11 establish with a new neurologist because Dr. Ward
12 retired. The new neurologist, Stewart Tepper, second
13 or third sentence into my visit with him asked me why I
14 didn't go to the Mayo Clinic, and what he said was, "If
15 you were my wife, you would have been on a plane a long
16 time ago. We are getting you to the Mayo Clinic", and
17 he approved my consultation at the Mayo. Brooke knew
18 this and put me out because I had a consultation on the
19 books for August of that year.

20 Q. So the, the new neurologist is Stewart Tepper?

21 A. Yes.

22 Q. And in this -- so sometime in early August you
23 went to go see Dr. Tepper to get a consult?

24 A. In June.

25 Q. In June?

1 A. Yeah. It was an established care appointment.

2 Q. Okay. So the care appointment then is at Mayo
3 Clinic in Rochester, Minnesota, correct?

4 A. I saw Stewart Tepper at Dartmouth-Hitchcock.

5 Q. Okay.

6 A. He referred me to the Mayo.

7 Q. When was that?

8 A. In June.

9 Q. Okay. And he referred you to the Mayo, and the
10 first time you could get in there was August?

11 A. Yes.

12 Q. Okay.

13 A. And Brooke knew this, and that's why she generated
14 this letter.

15 Q. Do you recall when you actually went to the Mayo
16 Clinic?

17 A. Mid to end of August.

18 Q. Did Dr. Tepper indicate why he was referring you
19 to the Mayo Clinic for this particular condition?

20 A. He strongly suspected I was still leaking.

21 Q. And is the Mayo Clinic, to your knowledge,
22 specialized in that area?

23 A. Yes.

24 Q. Okay. And, at that point, it was unclear how much
25 longer you would need to be out of work, correct?

1 A. Correct.

2 Q. And were you approved for a leave of absence as of
3 August 10th 2016?

4 A. Yes.

5 Q. Do you recall having surgery at Mayo Clinic in
6 September of 2016?

7 A. Yes.

8 Q. Okay. And, from August 10th 2016 until when were
9 you out of work completely at Dartmouth-Hitchcock?

10 A. I don't recall. I believe I went back to work
11 part time in November.

12 Q. It may help, since you don't recall, we'll go back
13 to Interrogatory Number 3, which I believe is Porter
14 Exhibit 4. Is that it? 4, yeah, it is 4. So just go
15 back to Porter Exhibit 4, and I'll direct your
16 attention to the bottom of Page 3.

17 ATTORNEY KRAMER: Don, are we looking at
18 Porter Exhibit 4? That's the Amended Complaint. 2 is
19 the interrogatories.

20 ATTORNEY SCHROEDER: I'm sorry. You're
21 right. Thank you.

22 BY ATTORNEY SCHROEDER:

23 Q. Dr. Porter, right to your left elbow, I think, is
24 Porter Exhibit 2, and the bottom of Page 3.

25 A. Yeah.

1 Q. Do you see that? It says, "On or about November
2 4, 2016, I returned to work". Do you know what the
3 basis -- "I worked about four hours a week at first and
4 then increased to seven hours a week in December of
5 2016". Is that accurate?

6 A. Yes.

7 Q. Do you know what is the basis for your belief that
8 that was your work schedule in November and December of
9 2016?

10 A. Same answer, I had a calendar.

11 Q. So the calendar will show roughly what your hours
12 were during that timeframe?

13 A. Roughly.

14 Q. Okay. And between November of 2014 you worked
15 roughly four hours a week, right?

16 A. At first.

17 Q. And then you increased it to about seven hours a
18 week in December of 2016?

19 A. Correct.

20 Q. Then it says you briefly returned to the Mayo
21 Clinic for treatment in January of 2017. How many, how
22 long was that treatment in January of 2017 at Mayo?

23 A. I flew out and flew back. It was less than a
24 week.

25 Q. Okay. And, as a result -- you had the surgery in

1 September, and then what was the purpose of the
2 treatment in January of 2017?

3 A. It was a blood patch.

4 Q. Okay. Can you explain to me just so I understand
5 it? There is a -- the surgery was in September of
6 2016, and that was to do what?

7 A. Surgically repair a leak in the dura.

8 Q. Okay. And then, to the extent that you had
9 follow-up treatment in January of 2017, you said it was
10 a blood patch. Is that related to the leak, or is it
11 just a --

12 A. It's related to the leak.

13 Q. It is related to the leak?

14 A. Yes.

15 Q. Is it like a smaller leak so that it's requiring a
16 patch as opposed to surgery, or is it, is it actual
17 surgery?

18 A. It's a -- how do you define surgery?

19 Q. Going under general anesthesia?

20 A. I received IV sedation.

21 Q. Okay.

22 A. And I had a blood patch at the leak site.

23 Q. Okay. And was that actual surgery that they had
24 to do?

25 A. It's considered an, it's considered an outpatient

1 surgical procedure.

2 Q. Okay. And you believe you were out there for
3 about a week?

4 A. Less than that, yes.

5 Q. Okay. And was there a period of time in January
6 2017 that you were out of work altogether as a result
7 of being out there for a week or so, less than a week?

8 A. During the time I was out there, yes.

9 Q. What about when you returned back; did you resume
10 --

11 A. I came back to work.

12 Q. You came back to work?

13 A. Yeah.

14 Q. And it's not clear. In January of 2017 you went
15 out there for your treatment and the blood patch, and
16 then you say, "By March 2017 I was able to work about
17 20 hours per week".

18 In January and February do you recall how much, if
19 at all, you were working per week roughly?

20 A. It will be in my calendar.

21 Q. Is that the only place it would be?

22 A. My record of it, yes, my personal record.

23 Q. Do you have any -- would you have kept any records
24 of time worked during 2016 when you were dealing with
25 your CSF leak or 2017 other than in your calendar?

1 A. I had to email my hours to Crystal Tepfer.

2 Q. Who is she?

3 A. She's in human resources, benefits.

4 Q. And were you emailing your hours to Crystal Tepfer
5 in HR or employee benefits because you were getting,
6 also getting paid by D-H, Dartmouth-Hitchcock, during
7 that timeframe?

8 A. Yes.

9 Q. Okay. Do you recall what compensation you were
10 receiving from Dartmouth-Hitchcock in the 2016-2017
11 timeframe when you were on long-term disability
12 benefits?

13 A. It varied based on the hours that I worked, and
14 the disability adjusted my pay, my benefit, based on
15 the number of hours I was working. I had to submit my
16 pay stubs to the Unum and to the Hartford.

17 Q. So, to the extent that you worked, it would have,
18 and you were paid by Dartmouth-Hitchcock, it would
19 diminish to some extent the long-term disability
20 benefit you were receiving?

21 A. There was a formula, a variable.

22 Q. Okay. When you said you had to submit documents
23 to Unum, was it pay stubs?

24 A. It was multiple, Unum and the Hartford.

25 Q. Okay.

1 A. There was forms, extensive forms, and I needed to
2 send them pay stubs.

3 Q. And did your pay stubs reflect hours worked?

4 A. I believe so.

5 Q. When you returned -- what was the, the reason why
6 you had to go back to the Mayo Clinic for treatment in
7 January 2017? You said it was a blood patch, but what
8 was -- were you still suffering from any symptoms?

9 A. Yes.

10 Q. Okay. And were those the same symptoms that
11 you've already testified to?

12 A. A portion of them.

13 Q. And were they any less or more severe than when
14 you were, with the first onset of this condition?

15 A. Less.

16 Q. Less? But they still existed? So the symptom of
17 sitting up from a prone position and being dizzy and
18 getting a headache, was that still a symptom?

19 A. It was markedly improved --

20 Q. Okay.

21 A. -- but, yes, I'd have it by the mid to, depending
22 upon my activity, midday.

23 Q. Okay. So, at some point, you came back to work,
24 and you were working some amount of hours in January
25 and February 2017, and that would be reflected in your

1 calendars?

2 A. Yes.

3 (Deposition Exhibit 6 marked.)

4 Q. Showing you a document marked Exhibit 6, and this
5 is an email communication from February 23rd 2017. I'd
6 just ask you to review it and let me know when you're
7 finished.

8 A. Okay.

9 Q. Do you recall that email communication relating to
10 your returning to work on limited hours and with
11 restrictions?

12 A. Yes.

13 Q. And you, now, it says here, "Yesterday Donna sent
14 out my schedule to David, Albert, and Kelly without my
15 permission, and I am told at the request of David.
16 Please do not ask Donna to send out emails with regards
17 to my schedule".

18 Why were you concerned that David, Albert, and
19 Kelly were being given your schedule?

20 A. Because David was repetitively violating my
21 restrictions.

22 Q. Well, if he didn't know your schedule, how would
23 he know whether there was accommodation?

24 A. He knew when I was there.

25 Q. Well, why were you -- didn't you think that your

1 colleagues should know when you were going to be
2 working there?

3 A. I didn't think my colleagues should be
4 interrupting my scheduled rest periods.

5 Q. Well, this wasn't your scheduled rest periods;
6 this was your schedule, correct?

7 A. If he knows my schedule, he knows that I'm going
8 to be in my office. He was continually violating my
9 scheduled rest periods.

10 Q. You don't say that here, correct? You say you
11 didn't want your schedule to be given to people that
12 you work with, right?

13 A. I did not want constant interruption of my
14 scheduled breaks, and I did not want them interrupting
15 the work flow when I was working.

16 Q. Well, at that point in February of 2017, you
17 reported to Dr. Seifer, correct?

18 A. Yes.

19 Q. Okay. He was your boss, right?

20 A. Yes.

21 Q. And you didn't want your boss to know what your
22 schedule was at that point when you were coming back to
23 work?

24 A. I didn't want my boss to be continually
25 interrupting my work flow. I didn't want my boss to be

1 interrupting my scheduled breaks.

2 Q. So you didn't want him to know your schedule at
3 all, right?

4 A. I wanted him to be compliant with the work
5 restrictions.

6 Q. Okay. But you didn't want him to know your
7 schedule, because, to your point, if he knew your
8 schedule, he would know that he could find you to ask
9 you questions?

10 A. No. It says, "Please come to me if you have
11 questions about my schedule and my work return".
12 That's very different.

13 Q. Well, you also said, "Don't ask Donna to send out
14 emails with regard to my schedule", right?

15 A. Yes.

16 Q. Is there a reason why you didn't send this email
17 to Albert Hsu at the time?

18 A. It, it was not directed towards Albert. It wasn't
19 necessary.

20 Q. Well, he's the only one that, that received a
21 schedule that didn't receive this email, though.

22 A. He wasn't my boss.

23 Q. Well, he's your colleague, though, right? You
24 guys are supposed to collaborate and coordinate things
25 together; is that right?

1 A. He wasn't my boss.

2 Q. He wasn't your boss, and you didn't think you
3 needed to let him know what your schedule was; is that
4 a fair statement?

5 A. No.

6 Q. What's wrong? You didn't believe that he -- you
7 certainly didn't want your schedule to be given to him.
8 You were upset about that, correct?

9 A. No.

10 Q. You weren't upset about Albert having your
11 schedule?

12 A. I didn't want Donna to email it out to David.

13 Q. Okay. And, at that point, do you know what your
14 schedule was?

15 A. No, not right now.

16 Q. At some point in March 2017, you started working
17 up to 20 hours per week; is that right?

18 A. Yes.

19 Q. At that point, were you suffering any symptoms
20 related to the CSF leak?

21 A. Yes.

22 Q. Okay. And, according to your Complaint, your
23 Amended Complaint which is Exhibit 4, I believe, you
24 were working 20 hours per week and continued to work 20
25 hours per week until the closure of the REI division?

1 A. Correct.

2 Q. In February 2017 were you getting along with
3 Albert Hsu?

4 A. I, I didn't see Albert very often.

5 Q. In 2017?

6 A. Yeah.

7 Q. Well, despite the fact that you didn't see him
8 very often, were you personable with him? Were you
9 working with him?

10 A. Yes.

11 Q. Did you have any issues with his work performance
12 in January-February 2017 timeframe?

13 A. I had issues with his work performance for a very
14 long time.

15 Q. And what about Dr. Seifer? You, you didn't want
16 Dr. Seifer to have your schedule in February of 2017,
17 correct?

18 A. February 23rd, yes.

19 Q. Right. And that was when you were starting to
20 work again at Dartmouth-Hitchcock after being treated
21 at the Mayo Clinic in January of '17?

22 A. Correct.

23 Q. Would it be fair to say that you were, that it was
24 not a satisfactory relationship with your boss at that
25 point?

1 A. Define satisfactory.

2 Q. Well, you tell me. How would you describe the
3 working relationship with Dr. Seifer at that point?

4 A. I was extraordinarily worried about his
5 performance.

6 Q. How would you describe your working relationship
7 with him?

8 A. Fair.

9 Q. And what was the basis for your, your position
10 that you were extraordinarily worried about his work
11 performance?

12 A. He appeared significantly impaired.

13 Q. And what's the basis for your comment that you
14 believed he appeared significantly impaired?

15 A. He was, he was intermittently cogent and
16 intermittently very confused. He wouldn't remember
17 things that I had said to him or other team members
18 that was even five or ten minutes later. There were
19 several behavioral things that were problematic.

20 Q. Anything other than what you've just testified to?

21 A. There's a whole list.

22 Q. Well, let's go by your recollection right now.
23 What other behavioral issues or list of behavioral
24 issues do you recall?

25 A. He had marked communication issues such that, when

1 I spoke with him, he didn't remember what I said to
2 him. He would not leave my office when I asked him to.
3 He wanted to walk me out to the car when I told him,
4 no, he needed to stay in the building. He had many
5 patient care issues where he didn't know or understand
6 basic physiology, and at other times he'd be quite
7 lucid.

8 I, it was not just me, but other individuals.
9 After he'd been in the bathroom, he'd urinated on the
10 wall and all over the toilet. He appeared
11 significantly impaired.

12 Q. Did you attribute that to any substance abuse
13 issue?

14 A. It was a possibility. I, I can't --

15 Q. Who told you he urinated on the wall?

16 A. No one told me. I saw it. I followed him into --
17 I used a bathroom right after him in a quiet space. It
18 was a one bathroom. You had to walk through another
19 room to get to it. He came out. I went in.

20 Q. How do you know he's the one that urinated on the
21 wall as opposed to somebody else before him?

22 A. It was wet, it was copious, and there was a whole
23 bunch of toilet paper towels stuffed into the toilet,
24 and one would think, if he had some concern that I
25 wouldn't be able to use it, he would have said

1 something on his way out.

2 Q. Do you know if he actually even used the urinal?

3 A. Oh, yeah. It wasn't --

4 Q. It was a toilet with a door, right?

5 A. Yeah, I know because he was wet all over. He was
6 washing his hands. I could hear him in there.

7 Q. You have no idea whether he just went in to wash
8 his hands and whether or not he even went into the
9 toilet, right?

10 A. No. I know that he was in the bathroom.

11 Q. You weren't in the bathroom with him, were you?

12 A. No, I was not.

13 Q. But you believe that he was in the toilet and he
14 urinated?

15 A. It's not just once, Mr. Schroeder. It was
16 multiple times.

17 Q. Multiple times? Okay. So, with respect to your
18 return to work in March 2017, 20 hours per week; April
19 2017, 20 hours per week roughly; is that right?

20 A. Correct.

21 Q. And did that -- and that carried forward into May
22 as well?

23 A. Approximately.

24 Q. Now, go back for a second, you go back to -- do
25 you recall when Mr., Dr. Seifer joined

1 Dartmouth-Hitchcock? Do you recall it being sometime
2 in late May 2016?

3 A. Yes.

4 Q. And late May and June, we went over the fact that
5 in July of 2016 you started working twelve hours a
6 week, correct?

7 A. Correct.

8 Q. And that went until about -- that was July 19th to
9 August 10th, so that's about three weeks. That's about
10 36 hours. But for June to mid-July, so it's about six
11 weeks, you were working five to seven hours a week,
12 right?

13 A. I'll look back at my records, the calendar.

14 Q. Well, the July 19th 2016 is when you first
15 requested in writing, the only document that I've seen,
16 that, that says twelve hours a week for your return to
17 work.

18 A. That's what the document says, but it was a
19 progressive change in my work duty hours.

20 Q. Right, it was a progressive change from what you'd
21 been doing, five to seven hours a week up to twelve
22 hours a week, right?

23 A. Agree.

24 Q. Okay. And then you were out August 10th to early
25 November, right?

1 A. Yes.

2 Q. And then in November I think you worked, let's
3 see, four hours a week if I remember correctly, right?

4 A. Consistent with the --

5 Q. Right.

6 A. -- interrogatory, yes.

7 Q. Right. And I'm going based on your interrogatory.

8 A. Yes.

9 Q. Seven hours a week in December 2016. So in
10 November 2016 you worked about 16 hours total. In
11 December 2016 you worked about 28 hours total, right,
12 roughly, give or take?

13 A. Again, I'd defer to my calendar.

14 Q. Well, let's just defer to, like, simple math. How
15 about four hours a week for four weeks in the month of
16 November? That gets you to about 16 hours a week. You
17 wrote in your interrogatory response four hours a week.
18 I'm just trying to quantify this.

19 ATTORNEY VITT: Is there a question?

20 ATTORNEY SCHROEDER: Yeah.

21 THE WITNESS: What is your question?

22 (Question read by the reporter:

23 "Q. Well, let's just defer to, like, simple
24 math. How about four hours a week for four weeks
25 in the month of November? That gets you to about

1 16 hours a week. You wrote in your interrogatory
2 response four hours a week. I'm just trying to
3 quantify this.")

4 BY ATTORNEY SCHROEDER:

5 Q. Right. So let's just go back to November 2016
6 you're working roughly four hours a week; that's what
7 you said. So that's about a total of 16 hours for the
8 month of November, right?

9 A. If you want to quantify it that way, yes.

10 Q. I'm just, I'm just asking. Yes, I want to
11 quantify it that way. So that's about 16 hours for the
12 entire month. Now, with respect to December, you were
13 working 7 hours a week, so that's about 28 hours for
14 that month, right?

15 A. Approximately.

16 Q. Within, so in, in the entirety of 2016 when
17 Dr. Seifer first arrived up until December 31, 2016,
18 you had very, you were, had very little interaction
19 with him; wouldn't that be a fair statement?

20 A. No.

21 Q. No, it wouldn't?

22 A. No.

23 Q. How much interaction were you having with him if
24 you were only at work less than an entire month in
25 total?

1 A. You just quantified it.

2 Q. Right. Well, it's an entire month, one month of
3 actual work, and you didn't want him to know your
4 schedule; you didn't like him having your schedule,
5 right?

6 ATTORNEY VITT: Objection. You've got two
7 things in there. You're asking about the scheduled
8 number of hours they're working?

9 BY ATTORNEY SCHROEDER:

10 Q. Right. You worked a total of approximately one
11 month, total, in work hours --

12 A. I wouldn't quantify it that way.

13 Q. -- on a full-time basis?

14 A. I wouldn't quantify it that way.

15 Q. Well, I'm quantifying it that way, and that's the
16 question I'm asking. So I understand you don't want to
17 quantify it that way, but, in total, if you were
18 working on a full-time, 40-hour-a-week basis, one
19 month, it quantifies all the time that you were
20 actually at Dartmouth-Hitchcock during that time
21 period, June 1 of 2016 up until December 31, 2016.

22 And my question is, How much interaction then were
23 you having with Dr. Seifer during that time period if
24 you were only working a total of one month of full-time
25 hours?

1 A. And my answer is, I wouldn't quantify it that way.

2 Q. That's not my question, though. How much
3 interaction did you have with him during the entirety
4 of 2016?

5 A. I'm trying to give you the most accurate
6 information and answer honestly, which is what you
7 instructed me to do. I would not quantify it that way.

8 Q. Right. But you were working -- we've gone over
9 your hours, right? We've gone over your hours for that
10 entire time period and when you were out of work and
11 when you were working on a very limited basis, right?

12 A. We've reviewed my hours, yes.

13 Q. Right, right. And, during that entire time, you
14 were handling your patients, correct, just your
15 patients as you said Dr. DeMars said you could do?

16 A. When I first came back, not during the entire
17 time, no.

18 Q. Well, when you first came back in July 2016 to the
19 12-hour-a-week schedule.

20 A. I was handling, when I first came back on the very
21 limited hours, I was handling my patients and patients
22 that were assigned to me by Dr. DeMars.

23 Q. Were any patients assigned to you by Dr. Seifer?

24 A. I don't recall.

25 Q. Well, you're very specific about Dr. DeMars giving

1 you patients. You don't recall any patients being
2 given to you by Dr. Seifer, right?

3 A. No, I don't recall.

4 Q. And were you acceptable of the patients being
5 assigned to you from Dr. DeMars?

6 A. Yes.

7 Q. And, in handling those patients, your own patients
8 that were waiting for you to return and, and would only
9 seek treatment with you and the patients approved by
10 Dr. DeMars, did you have any need to deal with
11 Dr. Seifer or Dr. Hsu during that time period?

12 A. I don't recall.

13 Q. Well, did you typically consult with anybody when
14 you were handling your patients, any, any other REI
15 physicians when you were handling your patients or
16 patients that were assigned to you?

17 A. Can you rephrase your question?

18 Q. When you were handling your patients --

19 A. Right.

20 Q. -- and/or the patients assigned to you by
21 Dr. DeMars, which you approved of --

22 A. Um-hum.

23 Q. -- typically, would you be able to handle those on
24 your own without any need for consultation with any of
25 the other REI physicians?

1 A. On those specific patients? Yes.

2 Q. Right. You could handle that independently
3 without the need to consult with either Dr. Seifer,
4 Dr. Hsu, or anyone else in the REI division, other than
5 the nurses that were assisting you?

6 A. There were, there were specific reasons for me to
7 handle those myself.

8 Q. What were those reasons?

9 A. There were faculty and OB/GYN residents who had
10 waited for me specifically to come back to do their
11 IVFs.

12 Q. And you said specific reasons to handle those
13 yourself, correct?

14 A. Right. And the second reason was because it was
15 risk management cases, and, due to some poor decisions
16 made by my partners, Dr. DeMars asked me to
17 specifically handle those on my own.

18 Q. So, since you were handling these cases on your
19 own and these patients on your own, there was no need
20 for you to interact with Dr. Seifer or Dr. Hsu on those
21 patient matters or risk management matters?

22 A. There was no need for me to interact with them
23 about those specifics patients, no.

24 Q. Right, right. And those were the things that you
25 were doing in the July, June-July, and presumably when

1 you returned back, November-December timeframe, right?

2 A. It was not the only thing I was doing.

3 Q. Were those primarily the only things you were
4 doing?

5 A. Primarily, when I first came back, yes.

6 Q. And did you continue to handle those patients in
7 the November and December of 2016 timeframe?

8 A. I don't recall.

9 ATTORNEY SCHROEDER: All right. Well, lunch
10 is here. Why don't we go off the record?

11 (A recess was taken from 12:05 p.m. to 1:00 p.m.)

12 (Deposition Exhibit 7 marked.)

13 BY ATTORNEY SCHROEDER:

14 Q. Showing you a document that's been marked Porter
15 Exhibit 7, it's D-H -- oh, sorry.

16 ATTORNEY VITT: That's all right.

17 BY ATTORNEY SCHROEDER:

18 Q. And, looking at this document, you are sending an
19 email communication to somebody in Provider Services at
20 Hitchcock. Is that related to your disability?

21 A. I don't know.

22 Q. Well, here you say that you've been on long-term
23 disability, returned to work nine to eleven hours a
24 week as of June 14th, and you wrote this email on July
25 5th 2016. Does this refresh your recollection that you

1 didn't begin working back at Dartmouth-Hitchcock until
2 sometime in mid-June?

3 A. No.

4 Q. You think that your calendar would be a better
5 evidence of what, if any, work you did during the
6 April-May timeframe?

7 A. Yes.

8 (Deposition Exhibit 8 marked.)

9 Q. I'm showing you a document that's been marked
10 Porter Exhibit 8. It's Porter 186 through Porter 213,
11 which represents that these were documents produced by
12 your counsel with those Bates numbers, and it is, as I
13 understand it, your entire calendar that you've been
14 referring to in the course of your deposition today,
15 okay?

16 A. Okay.

17 Q. I want to go through and specifically Page 198,
18 Porter 198, starting there, and I'd like you to
19 identify for the next few pages, and we'll start with
20 April 1st, April 2016. Do you see that page?

21 A. No. I'm sorry.

22 Q. That's okay.

23 A. 198?

24 Q. Yes, please.

25 A. Okay, yeah.

1 Q. I just want to make sure you have the same page I
2 do. Yeah. Oh, it is. Yes, okay. So, during the
3 morning session of your deposition, we were talking
4 about your interrogatory responses where you recounted
5 that you were working limited hours during the month of
6 April and May 2014, I believe, correct?

7 A. Which page of the interrogatory are you referring
8 to?

9 Q. It was Exhibit 2, and it was Interrogatory Number
10 3.

11 A. Exhibit 2?

12 Q. Yeah, Interrogatory Number 3.

13 A. Yeah.

14 Q. So, if you go there, in Interrogatory Number 3, I
15 believe, on Page 5 you talk about returning to work in
16 April of 2016 and that you were limited to five hours
17 per week. This soon increased to seven hours per week.
18 And then in June it says, "I increased my work hours to
19 twelve hours per week".

20 A. Right.

21 Q. What I'd like you to do for me is identify which
22 days you worked at Dartmouth-Hitchcock in the month of
23 April on Bates labeled Porter 198.

24 A. Um, again, I would have been tracking it, and I
25 certainly worked on the 6th.

1 Q. If you worked, you would have a work notation; is
2 that correct?

3 A. Not always, no.

4 Q. Okay.

5 A. Because, remember, I went back specifically to
6 take care of specific patients?

7 Q. Okay.

8 A. And it was variable.

9 Q. Any other dates?

10 A. In that week? Which, which --

11 Q. No, the whole month of April, I just want to start
12 from 1 and go forward. It looks like April 6th you
13 have the notation work.

14 A. Yeah.

15 Q. You have the notation work for the 11th.

16 A. The 11th.

17 Q. You have the notation work for the 14th?

18 A. Yes.

19 Q. Work for the 18th and work for the 21st. You
20 don't have any hours attributed to either of them, any
21 of those, do you?

22 A. No.

23 Q. Would there be any other place where you would
24 have identified any hours that you were working at
25 Dartmouth-Hitchcock during the month of April 2016?

1 A. I, I could get into Epic and look at it, the
2 schedule.

3 Q. Epic, the internal schedule for
4 Dartmouth-Hitchcock?

5 A. Yeah.

6 Q. Okay. What about the month of May; can you
7 identify which dates have an indication that you were
8 performing work on those days?

9 A. I don't see any specific work, no.

10 Q. Okay. If you go to the next page, which is May,
11 the week of May 22nd --

12 A. Yeah.

13 Q. -- May 16 to May 22nd and then the following page,
14 May 23rd to May 29th, do you see any indications -- and
15 it looks like you kept a fairly detailed journal at
16 least during the week of the May 16th. Do you have any
17 notations in here of working for Dartmouth-Hitchcock?

18 A. Not in that week.

19 Q. All right. And what about the week of May 23rd to
20 the 29th?

21 A. No.

22 Q. Okay. Shifting gears to June of 2016, it looks
23 like you were off on vacation the week of the 20th.

24 A. Yes.

25 Q. Are there any dates where you believe you

1 performed work and it's notated here?

2 A. Not notated here, no.

3 Q. Right. There's no, there's no reflection of any
4 work hours on this calendar, correct?

5 A. No.

6 Q. Now, July 2016, July 5th -- let's see. Looks like
7 it says 1:00 to 4:00 p.m. on the 5th.

8 A. Correct.

9 Q. Now, that actually coincides with the July 5th
10 notation that you sent to disability about returning to
11 work, right?

12 A. Well, is that disability, or is that provider
13 access?

14 Q. I don't know. You wrote the email, so I'm just --
15 I'm not sure. Do you know?

16 A. This is provider services. I don't know.

17 Q. Okay. Is the 1:00 to 4:00, do we know what that
18 is? Is that work, or is that --

19 A. That's work.

20 Q. Okay. And then later that week 1:00 to 4:00,
21 right?

22 A. Correct.

23 Q. Okay. The week of the 11th, it looks like 1:00 to
24 4:00 on the 11th and then work 10:00 to 2:00 --

25 A. Correct.

1 Q. -- on the 14th?

2 A. Yeah.

3 Q. The 18th, I don't see any, the week of the 18th, I

4 don't see any work.

5 A. I can't tell from that.

6 Q. Well, you don't see any?

7 A. I suspect not, yeah.

8 Q. Okay. And then the week of the 25th it looks like

9 1:00 to 4:00 on the 25th, and then is that 10:00 to

10 2:00 on the 28th?

11 A. Yes.

12 Q. Okay. And those would be the, the dates that you

13 worked?

14 A. No, there's more on there.

15 Q. Where?

16 A. On the 6th, two hours.

17 Q. Where do you see that?

18 A. Right under "Craig", 8:30 to 9:30.

19 Q. Well, 8:30 to 9:30 is one hour.

20 A. No, that was my appointment. Right underneath

21 there it says two hours.

22 Q. Oh, okay, okay.

23 A. On the 12th it says "Transfer, 10:00 o'clock".

24 Q. What does that stand for?

25 A. It's an embryo transfer that I did.

1 Q. Okay. How many hours were you there?

2 A. I don't recall.

3 Q. Okay. Any other dates where you worked and it's
4 reflected on this?

5 A. Um, I suspect on the 21st. On the 22nd I did
6 fellow interviews.

7 Q. You say "suspect on the 21st". What leads you to
8 believe that?

9 A. There's something written there above "Carry 2:00
10 p.m.", and I did fellowship interviews on the 22nd.

11 Q. Okay. Anything else?

12 A. We mentioned the 25th.

13 Q. Um-hum, and the 28th.

14 A. And I did a transfer on the 29th.

15 Q. How long does an embryo transfer -- is it an
16 embryo transfer?

17 A. Yeah.

18 Q. How, how long would they typically last?

19 A. It's variable.

20 Q. Um.

21 A. You know, at least an hour.

22 Q. Okay.

23 A. The transfer itself, just a few minutes. The
24 setup --

25 Q. The procedure just --

1 A. -- the conversation, the counseling --

2 Q. Right.

3 A. -- the waiting for the entire team to show up is
4 longer. Can be really variable.

5 Q. An hour or two?

6 A. Usually.

7 Q. Let's go to August of 2016, which is Porter 204.
8 Can you identify on this document the days that you
9 worked? That's a question.

10 A. What is your question?

11 Q. Can you identify the days that you worked in the
12 month of August 2016 based on this calendar?

13 A. Based on this calendar, most likely the 1st, the
14 2nd, the 4th, the 8th, the 9th, the 11th, and that's
15 it.

16 Q. And you think you worked the 11th, even though the
17 letter from your physician that you were no longer able
18 to work was dated the 10th?

19 A. Yes, because it was backdated.

20 Q. Okay.

21 A. She, she didn't put the proper date on it when she
22 sent it in.

23 Q. Okay. And no other days in August, correct?

24 A. No.

25 Q. Now, if we shift all the way to November 2016, can

1 you identify which dates you worked during the month of
2 November 2016?

3 A. The 11th, the 14th, the 17th, and, again, most
4 likely these can be confirmed in Epic.

5 Q. Okay.

6 A. The 21st, the 22nd, um, most likely the 23rd, the
7 28th, the 29th, the 30th.

8 Q. The 30th was 11:00 to 1:30, right?

9 A. Yeah, and I probably was in earlier because it was
10 Sharon's retirement party.

11 Q. Is that Sharon Parent?

12 A. Yes.

13 Q. It says "Leslie 2:00 p.m." on the 29th. Do you
14 know what that was about?

15 A. I scheduled a meeting with her.

16 Q. Okay. Next page, December 2016, can you identify
17 which days you worked?

18 A. Monday.

19 Q. Is that 8:00 to 11:00?

20 A. I can't tell. I suspect it's 1:45 or --

21 Q. Looks like 8:00 to 11:00 a.m.

22 A. Which date are you on?

23 Q. December 1.

24 A. December 1st, yes, 8:00 to 11:00.

25 Q. Okay. Where else?

1 A. The 5th.

2 Q. Oh, that was the 1:45 to 4:00 p.m. you were

3 referring to?

4 A. Yeah. The 8th.

5 Q. Is that 8:00 to 11:00?

6 A. Yes. The 12th.

7 Q. 1:00 to 4:00?

8 A. Yeah. I went in to grand rounds on the 13th.

9 Q. What's that?

10 A. Grand rounds is department education meeting.

11 Q. Okay.

12 A. I worked the 15th.

13 Q. Is that 10:00 to --

14 A. 2:00 or 3:00.

15 Q. Okay.

16 A. Three frozen embryo transfers is what that means.

17 Q. Okay.

18 A. The 19th, 1:00 to 4:00. I went in on the 21st.

19 Q. Do you know how long?

20 A. No. 8:00 to noon on the 22nd, 1:00 to 4:00 on the

21 27th, 8:00 to noon on the 29th.

22 Q. Okay. January 2017?

23 A. 1:00 to 4:00 on the 9th, 8:00 to 2:00 on the 11th.

24 Looks like I worked on the 12th, but I can't

25 reconstruct it right now.

1 Q. It looks like dental cleaning 7:30 a.m.
2 A. Yeah, but there's something after that.
3 Q. Oh, yeah.
4 A. 9:00 to noon on the 13th, and then I did some
5 retrievals on the 16th and 17th by the looks, and it
6 says 11:30 to 5:30, something I can't read, something
7 2:00 p.m. or 12:40 p.m., something. 10:00 to 2:00.
8 Q. On the 18th?
9 A. Yeah. 8:00 to noon on the 19th; 23rd, 8:30 to
10 12:30.
11 Q. Was that a retreat?
12 A. Yes.
13 Q. Retreat was also on the 25th --
14 A. Yes.
15 Q. -- 10:00 to 2:00?
16 A. Um-hum. And then I had some transfers, too, in
17 there by the looks.
18 Q. Where is that?
19 A. It's, I write "TR" when there's a transfer. It
20 looks like on the 26th there may have been a transfer.
21 Q. Is that transfer or Tom?
22 A. Below there is Tom's colonoscopy. That one, I'm
23 not certain about before there.
24 Q. Okay.
25 A. 30th, 1:00 to 4:00; 8:00 to noon on Wednesday the,

1 whatever, February now. 8:00 to 3:00 on the next day.
2 Q. Okay. Month of February?
3 A. It says 8:00 to noon on the 1st.
4 Q. Right.
5 A. 1:00 to 4:00 on the 2nd, 8:00 to 12:00 on the
6 14th. Then we had value institute meetings on the
7 15th. Looks like there was also value institutes maybe
8 on the 14th, 8:00 to 12:00. 8:00 to noon on the 16th.
9 I met with Leslie on the afternoon of the 16th. I gave
10 a grand rounds down at Elliot Hospital in Manchester on
11 the 17th.
12 Q. Okay. Week of the 19th?
13 A. On the 20th, 1:00 to 4:00. 21st I had an OR case,
14 and then it looks like I had clinic to follow that 1:00
15 to 4:00. Looks like I worked the 23rd.
16 Q. What's that?
17 A. 8:00 to 2:00.
18 Q. Um-hum.
19 A. And the 24th, 9:00 to 2:00. Then all day on the
20 27th or several hours on the 27th, we had BabySentry
21 training, which is the computer program.
22 Q. Okay.
23 A. And then we also had a meeting on the 28th.
24 Q. All right. March?
25 A. I did an ultrasound conference at UVM, attended an

1 ultrasound conference. I worked 8:00 to noon, 9:00 to
2 noon. I did some interviews.

3 Q. That's March 2nd and March 3rd, right?

4 A. Yeah. Um-hum.

5 Q. Okay.

6 A. Um, I went in for -- I think it's 10:00 to 4:00 or
7 something like that. I had a noon interview, and then
8 it says 10:00 something. The 8th, the 7th I worked on
9 my ultrasound talks. 8th, 8:00 to noon; 9, 8:00 to
10 2:00 p.m.; 10, 9:00 to noon.

11 Q. Um-hum.

12 A. 13th, 1:00 to 4:00; 15th, 9:30 to noon; 16th, 8:00
13 to 2:00; 17th, 9:00 to -- it's either noon or 2:00 p.m.

14 Q. Week of the 20th?

15 A. 1:00 to 4:00.

16 Q. Um-hum.

17 A. 8:00 to noon.

18 Q. Where is that, 22nd?

19 A. That's the 22nd.

20 Q. Yeah.

21 A. Then I had a meeting. 8:00 to 2:00.

22 Q. On the 23rd?

23 A. Yeah. Then I went in. I gave grand rounds on the
24 24th.

25 Q. Looks like 7:00 to --

1 A. It would have been a chunk of the day, because I
2 believe, I believe that grand rounds was probably at
3 Baystate.

4 Q. Okay.

5 A. And then I was in the OR on the 29th.

6 Q. How long was that?

7 A. I don't know.

8 Q. It says two --

9 A. May have been two OR cases.

10 Q. Okay. You don't know how long you were there?

11 A. No.

12 Q. Anything else?

13 A. 1:00 to 4:00 on the 30th. Then it looks like I
14 was back in the OR again on the 31st.

15 Q. Say 9:00 to noon under that?

16 A. Probably 7:00.

17 Q. 7:00 to noon? All right. April?

18 A. 1:00 to 4:00.

19 Q. On the 3rd?

20 A. Yeah. 8:00 to 12:00.

21 Q. On the 5th?

22 A. Um-hum. 8:00 to 2:00.

23 Q. On the 6th?

24 A. 9:00 to noon.

25 Q. On the 7th?

1 A. Yeah.

2 Q. Okay.

3 A. 10th, 1:00 to 4:00, and 11th I had an OR case.

4 12th, 8:00 to noon; 13th, 8:00 to 2:00. 14th, I had an

5 OR case.

6 Q. Okay. What about the week of the 17th?

7 A. Looks like 7:00 to 4:00, but it was probably -- I

8 don't know exactly if that's a one or a seven.

9 Q. It says "Deborah 10:00 a.m."

10 A. Yeah.

11 Q. What would that mean?

12 A. I had an appointment at 10:00 a.m.

13 Q. Oh, okay.

14 A. And then 8:00 to noon on Wednesday, and it looks

15 like maybe something in the afternoon, or here's where

16 I gave ground rounds at Baystate, and then I also

17 worked on the 21st.

18 Q. How long there?

19 A. I don't know.

20 Q. Okay. Week of the 24th?

21 A. 1:00 to 4:00, 8:00 to noon.

22 Q. 8:00 to noon was the 26th?

23 A. Yeah. 8:00 to 2:00.

24 Q. 27th?

25 A. 9:00 to noon.

1 Q. On the 28th?

2 A. Um-hum. 28th, yeah.

3 Q. The last month, May.

4 A. 1:00 to 4:00.

5 Q. On the 1st? Okay.

6 A. Yeah, looks like something 11:00 to noon and then

7 1:00 to 4:00.

8 Q. On the 2nd?

9 A. The 2nd. 8:00 to 2:00 on the 4th.

10 Q. Okay.

11 A. 9:00 to noon on the 5th, 1:00 to 4:00 on the

12 Tuesday, 8:00 to 2:00 on the 11th. I worked 9:00 to

13 noon on the 12th. It looks like --

14 Q. Where is it? Can you show me? Oh, 9:00 to noon,

15 okay.

16 A. Yeah.

17 Q. All right.

18 A. It either looks like on these Mondays I had picked

19 up the 11:00 to noon time, the 1st --

20 Q. Um-hum

21 A. -- the 8th, the 15th, and then 1:00 to 4:00.

22 Looks like I was in on the 16th because it says 11:30.

23 Q. 11:00 to 11:30?

24 A. Well --

25 Q. 9:00, no?

1 A. Yeah, something in there. 8:00 to 2:00 on the
2 18th, then again probably 11:00 to noon on the 22nd,
3 1:00 to 4:00 in the afternoon. I went to Burlington on
4 the 24th.

5 Q. What's that?

6 A. It's related to fellowship --

7 Q. Okay.

8 A. -- work for the fellowship.

9 Q. How long would that have been?

10 A. Probably the day. I don't know.

11 Q. Okay. Week of the 29th?

12 A. I took vacation at the end after they announced
13 our termination --

14 Q. Okay.

15 A. -- and then I went back to the Mayo. I took
16 vacation days.

17 Q. Okay. So, based on these records, these would be
18 the most accurate reflection of your work hours as you
19 recall them?

20 A. It would be a conglomeration of being able to get
21 into Epic, those --

22 Q. And what would Epic show?

23 A. The patients that I saw.

24 Q. Would it have your name next to them?

25 A. It would be under my schedule, it would be listed,

1 and then it would be this --

2 (Indicating Exhibit 8.)

3 -- but also I had been tracking them for pay
4 stubs.

5 Q. With respect to earlier testimony, you mentioned
6 that you believed that it was possible that Dr. Seifer
7 might have been impaired at some point?

8 A. Not at some point.

9 Q. Well, at what point was he, do you believe he was
10 impaired, significantly impaired?

11 A. Well, while he was working for D-H.

12 Q. The entire time?

13 A. Intermittently, yes.

14 Q. And did you ever report that through the proper
15 channels for fitness-for-duty certification?

16 A. I did.

17 Q. To whom?

18 A. I reported regularly to Leslie DeMars.

19 Q. What did you report to her about this and when?

20 A. The record will show the emails that I sent her.
21 You have them.

22 Q. Do you recall when you sent them?

23 A. And then in her meetings with her. Not the exact
24 dates, no. From the very beginning.

25 Q. So dating back to June of 2016?

1 A. Dating back at least until August, yes.

2 Q. August of 2016?

3 A. It, it August that he started --

4 Q. He started in June.

5 A. Yes.

6 Q. I'm just trying to figure out when, when you first

7 determined that he appeared to be significantly

8 impaired.

9 A. August.

10 Q. And you reported that to Leslie in that timeframe?

11 A. Yes, absolutely.

12 Q. And you did it in writing?

13 A. Yes. Not in the words "significantly impaired".

14 Q. No, but you, words to that effect?

15 A. Yes. He appears to be disoriented. He doesn't

16 remember what I say to him.

17 Q. Did you report it to anyone else?

18 A. Yes, Heather Gunnell.

19 Q. The same timeframe?

20 A. It was, I will say, in terms of dates and times,

21 it was multiple conversations over multiple instances

22 over a prolonged period of time.

23 Q. With respect to your reports to Heather Gunnell,

24 did you do any of those in writing?

25 A. I don't recall.

1 Q. Other than Heather Gunnell and Leslie DeMars,
2 anyone else you reported to regarding Dr. Seifer's
3 cognitive ability or lack thereof?

4 A. I did what I was supposed to do, Mr. Schroeder,
5 which was to report directly up.

6 Q. That's not my question. My question is, Anyone
7 else did you report to?

8 A. I did what I was supposed to do, which was to
9 report directly up.

10 Q. I understand that. You testified that it was
11 Dr. DeMars and Ms. Gunnell. Did you report any issues
12 relating to Dr. Seifer to anyone else other than those
13 two individuals?

14 A. Who are you referring to?

15 Q. Heather Gunnell and Dr. DeMars.

16 A. Yes, I reported to them.

17 Q. Other than them, did you report to anyone else
18 your concerns about Dr. Seifer's condition?

19 A. Yeah, Katie, the head nurse.

20 Q. What's her name?

21 A. Kathleen Mansfield.

22 Q. When did you do that?

23 A. When the nurses came to me with, multiple nurses
24 came with multiple concerns.

25 Q. What was the timeframe on that?

1 A. It would have been from the beginning of him
2 starting that they reported to me, somewhere in June,
3 July, August.

4 Q. And you reported that to Kathleen Mansfield?

5 A. Yes.

6 Q. Okay. Anyone else that you made any reports to
7 regarding Dr. Seifer's condition, mental condition, in
8 your, in your mind?

9 A. Not that I recall at this point.

10 Q. Do you know an individual by the name of
11 Dr. Joanne Conroy?

12 A. I do. I don't know her, but I know she's employed
13 by Dartmouth-Hitchcock.

14 Q. Okay. Have you ever met her?

15 A. No.

16 Q. Okay. What, if any, facts are you aware of which
17 you believe demonstrate that she has some connection to
18 your lawsuit?

19 A. I don't understand your question.

20 (Question read by the reporter:

21 "Q. Okay. What, if any, facts are you aware
22 of which you believe demonstrate that she has some
23 connection to your lawsuit?")

24 THE WITNESS: I don't understand the
25 question. Please rephrase it.

1 BY ATTORNEY SCHROEDER:

2 Q. Well, you've got a lawsuit, an employment
3 litigation matter against Dartmouth-Hitchcock. Do you
4 have any facts -- are you aware of any facts that she's
5 got any connection to your allegations in this lawsuit?

6 A. Please ask me a more direct question.

7 Q. That's as direct as it's going to get.

8 A. I stand on my answer.

9 Q. So you don't have an answer? You, you're not
10 aware of any specific connection between Dr. Conroy and
11 your lawsuit?

12 A. She's the CEO of Dartmouth-Hitchcock.

13 Q. Right, but she became the CEO after your
14 departure, correct?

15 A. She did.

16 Q. Right.

17 A. But she was already, she was already engaged by
18 Dartmouth-Hitchcock.

19 Q. How do you know that?

20 A. Because it was already announced that she was
21 starting.

22 Q. And, when you say she was already engaged by
23 Dartmouth-Hitchcock, what time period?

24 A. There's a time period by which it was announced
25 that Dr. Weinstein would be leaving. There was an

1 interim person, and then --

2 Q. Who was that?

3 A. I don't recall exactly.

4 Q. Okay. Do you have -- are you aware of anything
5 that connects Dr. Conroy to any of the allegations in
6 your lawsuit?

7 A. I've already answered that.

8 Q. When she became CEO?

9 A. Please rephrase your question.

10 Q. You've, you've made a number of allegations
11 against a number of physicians in this case, correct?

12 A. I've made allegations against some physicians,
13 yes.

14 Q. Right. And what I'm asking you is what, if
15 anything, are you aware of that connects Dr. Conroy to
16 any of the allegations in your lawsuit that you're
17 alleging support your claims of either whistleblower
18 retaliation or discrimination?

19 A. I stand on the same answer.

20 Q. What's that answer?

21 A. I'm not understanding your question.

22 Q. Well, you know who Dr. Conroy is, right?

23 A. Yes.

24 Q. You never met her?

25 A. No.

1 Q. You're aware that she became the CEO after the
2 closure of the REI division, right?

3 A. I don't know the exact timing, yes, but she was, I
4 believe that she was already named.

5 Q. What's the basis for your belief that that has
6 anything to do with your lawsuit?

7 A. I don't understand your question, Mr. Schroeder.

8 Q. Well, you know that she's the CEO?

9 A. Yeah.

10 Q. And you're aware that your lawyers have sought to
11 seek her deposition in this case? You're aware of
12 that, correct?

13 A. Yes.

14 Q. Okay. What do you believe personally she has any
15 connection to your litigation? How is she at all
16 related?

17 A. She was named CEO.

18 Q. So, when she was named CEO, she was named CEO in
19 August of 2018.

20 A. She started in August. She was named before that.

21 Q. Okay. And you believe that, because she was named
22 before that, that fact alone has some connection to
23 your case?

24 A. That's not what I'm saying, no.

25 Q. Well, what are you saying?

1 A. I don't understand your question, Mr. Schroeder.

2 Q. Well, let me ask you this: What are you -- how,
3 if at all, what facts are you aware of that Dr. Conroy
4 had anything to do with the closure of the REI
5 division?

6 A. Um, she was named as CEO.

7 Q. That's it?

8 A. She had multiple meetings with individuals before
9 my lawsuit went in.

10 Q. Before your lawsuit?

11 A. Yeah.

12 Q. Right. Multiple meetings with whom?

13 A. Barry Smith.

14 Q. About what?

15 A. About -- well, you have the emails, Mr. Schroeder.

16 Q. No, no. Here's the deal: I get to ask the
17 questions. You have to answer the questions, okay?
18 This is a serious litigation matter where your legal
19 counsel is seeking the deposition of somebody. I want
20 to know what you, the Plaintiff in this case, know
21 specifically what you believe to be the basis for her
22 connection, Dr. Conroy's connection, to this
23 litigation. That's all I'm asking you.

24 And you keep saying, Well, she was named the CEO.

25 Okay. Other than that? You then mentioned that she

1 had multiple meetings with Dr. Smith. What does that
2 have to do with your litigation?

3 A. There is a conversation about keeping me employed
4 at Dartmouth-Hitchcock and my value to both UVM and to
5 D-H.

6 Q. Do you know when that conversation occurred?

7 A. Not exactly, but it was in the timeframe before my
8 lawsuit went in.

9 Q. And when was your -- let's see.

10 A. October.

11 Q. Your lawsuit, so October of 2018, correct, or
12 October 2017?

13 A. Correct.

14 Q. So, sometime between her announcement as CEO and
15 the filing of your lawsuit, you believe there was a
16 conversation between Dr. Smith and Dr. Conroy?

17 A. Um-hum.

18 ATTORNEY VITT: You need to say "yes".

19 THE WITNESS: Yes. Sorry.

20 BY ATTORNEY SCHROEDER:

21 Q. And that was well after the REI division had been
22 closed and you'd been terminated, correct?

23 A. The conversation was after, yes.

24 Q. Right. At least three months after?

25 A. Find the email, and you'll get the date.

1 Q. Well, I'm asking you. This isn't a hide-and-seek
2 approach. I get to ask you questions, and you have to
3 answer them to the best of your recollection. You do
4 not get to say to me, Go look at this email, go look at
5 that email. There are a lot of emails in this case.
6 We produced numerous documents in this case.

7 So my question is, It's about three months after
8 your termination if that conversation even occurred,
9 correct?

10 A. That conversation did occur, and it's not
11 necessarily three months later.

12 Q. Well, when did it occur if you don't believe it
13 was necessarily three months later?

14 A. It was in that summer.

15 Q. And what do you believe happened during that
16 conversation?

17 A. There was an email, or there was a conversation
18 that he suggested that, given my strong connections to
19 Dartmouth, my 20 years of service, my strong connection
20 to UVM, the necessary training requirements for
21 obstetrics and gynecology in reproductive medicine, and
22 the training requirements for the fellowship, there be
23 at least consideration to establishing a joint program
24 with UVM.

25 Q. And what, if any, response was given by

1 Dr. Conroy?

2 A. I don't recall.

3 Q. You don't have any idea?

4 A. I don't recall right now.

5 Q. And was that a verbal conversation or in writing?

6 A. Barry forwarded me the email.

7 Q. It was an email that Dr. Smith sent to Dr. Conroy,
8 right?

9 A. Yes.

10 Q. So, other than that email communication from
11 Dr. Smith, are you aware of any other facts which you
12 believe demonstrate that Dr. Conroy has any connection
13 to the allegations in your lawsuit?

14 A. Yeah. I, I ran into Barry at the farm stand, and
15 he told me he'd, he'd met with her.

16 Q. He'd met with her?

17 A. Yeah.

18 Q. So, in addition to that email communication, he
19 also met with her?

20 A. That's what he said.

21 Q. And what did he tell you about that meeting?

22 A. That he strongly encouraged her to reconsider the
23 decision that had been made.

24 Q. And what, if any, response was given?

25 A. I don't recall.

1 Q. Do you know when that meeting happened?

2 A. No.

3 Q. So you don't know what, if any, response

4 Dr. Conroy had, correct?

5 A. Not off the top of my head right now.

6 Q. Any other facts which you believe support your
7 belief that Dr. Conroy has any connection to the
8 allegations in your lawsuit other than what you've
9 testified to?

10 A. I reserve the right to amend my comments, yes.

11 Q. We understand you, you have the right to reserve
12 and supplement your comments at any given point, but
13 we're sitting here today asking you specifically these
14 questions. It's on the record that you reserve the
15 right to supplement your answers. You don't have to
16 keep repeating that.

17 My question is, Are there any other facts which
18 you believe support some tangible connection between
19 Dr. Conroy and the allegations in your lawsuit other
20 than what you've testified to?

21 A. She's been asked about it publicly. She made a
22 statement about the infertility services to the "Valley
23 News".

24 Q. Okay. Anything else?

25 A. I'm sure there are others.

1 Q. Well, I want to know what they are.

2 A. Leslie told me she met with Joanne Conroy.

3 Q. When did that occur?

4 A. I don't know. I don't recall.

5 Q. Do you know what happened during that
6 conversation?

7 A. I don't have the detail, no, but she alluded to it
8 was the infertility service, REI services.

9 Q. What do you mean, she alluded to the REI services?

10 A. Leslie said that she was going to meet with Joanne
11 about the reproductive medicine services.

12 Q. Anything else?

13 A. That's what I recall at this point.

14 Q. And do you know if that meeting ever happened?

15 A. I don't.

16 Q. Anything else?

17 A. I've answered that question.

18 Q. Are there any other facts other than the ones
19 you've testified to to support your belief that there
20 is some connection between Dr. Conroy and the
21 underlying allegations in this lawsuit?

22 A. That's what I recall right now.

23 ATTORNEY SCHROEDER: Take a quick break?

24 (A recess was taken from 1:46 p.m. to 1:59 p.m.)

25

1 BY ATTORNEY SCHROEDER:

2 Q. Do you recall, just shifting gears, do you recall
3 in the late 2016 timeframe a concern within the REI
4 division that there was a critical shortage of nursing,
5 nursing staff?

6 A. Yes.

7 Q. And what do you recall specifically about that?

8 A. That the nurse that was offering to come back and
9 work was declined after her retirement, that one of the
10 more seasoned nurses had been escorted out by human
11 resources, that we had nurses floating up from same day
12 who were willing to work more in the REI division, but
13 the job was left unposted, posted initially and left
14 unposted for a considerable period of time.

15 Q. So let me ask you. You talked about a couple of
16 people there. The first person who was retiring?

17 A. Yes.

18 Q. Who was that?

19 A. Sharon Parent.

20 Q. Parent? And she retired in December of 2016?

21 A. I believe so.

22 Q. Right. We just went through the retirement party
23 thing, right? It was sometime --

24 A. Correct.

25 Q. -- in December? Okay. Where would you have

1 nurses located in that timeframe? So November-December
2 2016, how many nurses would you have, and in which
3 locations would you have them for the REI division?

4 A. We had nurses in the inpatient and outpatient
5 setting.

6 Q. But how many would you have? So did you have
7 other locations other than Lebanon?

8 A. Oh, yes.

9 Q. That's what I'm, I'm -- let me --

10 A. Marley, yes.

11 Q. I didn't say that or phrase that correctly. So
12 how many locations would you have nurses located at for
13 REI, for the REI division?

14 A. Please clarify your question.

15 Q. Well, did you have, did you perform REI services
16 at locations other than Lebanon?

17 A. Yes, Manchester.

18 Q. Okay. What about Bedford?

19 A. It's the Bedford/Manchester.

20 Q. Okay. That was a little confusing to me.

21 A. Because we were --

22 Q. So it's the same --

23 A. We were in Manchester initially, and then our
24 office got moved to Bedford.

25 Q. Okay. So that's really one location --

1 A. Yes.

2 Q. -- ostensibly? And then Lebanon's the other one,
3 right?

4 A. For employed nursing, yes.

5 Q. Is there something, is there some differentiation
6 you're making in your mind about that?

7 A. For D-H employed nurses, yes.

8 Q. Right, that's what I'm talking about. So, in the
9 November-December 2016 timeframe, you had locations in
10 Lebanon, Manchester/Bedford. Sharon was retiring. You
11 had a more seasoned nurse that you said was escorted
12 out. Who was that?

13 A. Casey Dodge.

14 Q. Okay. She was fired, right?

15 A. To my knowledge, she was at least put on
16 probation.

17 Q. Did she work here any longer thereafter?

18 A. I understand she's now employed by
19 Dartmouth-Hitchcock again. At least she was for some
20 period of time and then left again.

21 Q. Okay. With respect to her being an REI nurse --

22 A. Yes.

23 Q. -- that stopped in November 2016?

24 A. Approximately.

25 Q. Okay. So Casey Dodge stops working in REI

1 November 2016. You also have Sharon Parent retiring in
2 December of 2016. What other nurses, D-H employed
3 nurses, were there in the REI division?

4 A. Marlene Grossman was in the Manchester office --

5 Q. Okay.

6 A. -- Manchester/Bedford.

7 Q. Do you recall Marlene leaving for another position
8 or another practice at some point in April 2017?

9 A. I don't remember the date, but, yes, she left.

10 Q. Is that, does that seem likely? Does that seem
11 reasonable or likely that she left sometime in that
12 timeframe?

13 A. Yes.

14 Q. And then the other nurse in the REI division was?

15 A. Marcel Lewis.

16 Q. Marcel Lewis, Marty?

17 A. Yes.

18 Q. And was she the only remaining REI-devoted nurse
19 at the time the REI division was closed?

20 A. No.

21 Q. Who else was in there?

22 A. Jamie Florence was working, and there was some --
23 there were some part-time people.

24 Q. Okay. But nobody had been -- nobody replaced
25 Casey Dodge, correct?

1 A. There were people willing to replace Casey Dodge.

2 Q. Whether or not anybody was willing to replace
3 Casey Dodge, did anybody actually replace Casey Dodge?

4 A. Not to my knowledge.

5 Q. Okay. And no one replaced Sharon Parent, correct?

6 A. Not to my knowledge.

7 Q. And you said there was an effort to bring her
8 back?

9 A. She wanted to come back, and she had been told she
10 could come back.

11 Q. By whom?

12 A. Heather and Katie Mansfield.

13 Q. And do you know why she wasn't?

14 A. Months later they told her she wasn't going to be
15 able to come back after they had told her several times
16 that she could.

17 Q. And are you aware of the fact that there's a
18 policy that prevents retired employees being rehired on
19 a per diem basis?

20 A. I'm aware that D-H has not, not enforced that
21 policy with other important ancillary staff.

22 Q. But you're aware the policy exists, regardless?

23 A. I'm aware that D-H has not enforced that policy
24 with other important staff.

25 Q. But are you aware of any underlying policy,

1 whether or not it's enforced or not?

2 A. I've answered that question.

3 Q. No. The question is this: By saying that, Well,
4 I'm aware it's not enforced means you understand that
5 there is a policy --

6 A. Yes.

7 Q. -- right? And you're aware that the policy,
8 regardless of whether or not it's enforced, states that
9 words to the effect that, if somebody retires, they
10 can't be rehired back on a per diem basis, right?

11 A. I'm aware there's an policy, yes.

12 Q. Okay. And are you aware of it -- what are your
13 examples of people being rehired back on a per diem
14 basis who had retired?

15 A. One of the long-term ultrasound techs was brought
16 back.

17 Q. Who was that?

18 A. Sheila Foote.

19 Q. Anyone else?

20 A. Not that I can name by name that, but I'm aware
21 that others have come back in the organization, in the
22 OR especially. Wherever there was a critical shortage,
23 people are allowed to come back, nurse anesthetists,
24 ultrasound techs. So it seemed incongruous they
25 wouldn't let Sharon come back.

1 Q. Did you have any involvement in trying to get her
2 rehired?

3 A. Yes.

4 Q. And who did you -- how were you involved?

5 A. I talked to Heather, and, in fact, I'm sure you're
6 aware there's an email that says there's a critical
7 shortage, it makes sense to bring her back, and I spoke
8 with Katie Mansfield multiple times. I spoke with
9 Leslie. I spoke with David.

10 Q. And what did David -- what did Leslie say in
11 response?

12 A. Sharon needs to be with her mother.

13 Q. Was her mother ill at that point?

14 A. Her mother had been diagnosed with lung cancer.

15 Q. And was she responsible as a primary caregiver?

16 A. No.

17 Q. And what did David say in response?

18 A. That it was not an option he was going to pursue.

19 Q. Did he say why?

20 A. No.

21 Q. So Casey wasn't replaced, and then Sharon wasn't
22 replaced, and then Marlene gave her notice in April
23 2017?

24 A. Correct.

25 Q. So you were down three nurses at that point?

1 A. Ostensibly, yes.

2 (Deposition Exhibit 9 marked.)

3 Q. Showing you a document that's been marked Exhibit
4 9, and ask you if you can identify the sequence of
5 emails, and I'll start on the last page, which is an
6 email from Heather Gunnell to a number of people dated
7 November 3rd 2016, And it talks about covering the
8 nursing tasks and recruiting, and it says in the
9 middle, "In the meantime, Katy has also reached out to
10 the Central Staffing office to start the process for
11 finding a traveling nurse and is also working with HR
12 to aggressively recruit for our open position".

13 Do you know what the open position was for at that
14 point?

15 A. I do not. I suspect it was Sharon's retirement.

16 Q. Okay. And, if you go to the, the page before,
17 there's an email on November 3rd 2016 from David Seifer
18 regarding efforts to recruit nurses. You'd mentioned
19 before that there were a couple of people, a couple of
20 nurses that you believe wanted to work in the REI
21 division?

22 A. Yes.

23 Q. Do you know whether they applied for the open
24 position?

25 A. Their names were given to Katie Mansfield.

1 Q. Okay.

2 A. And she never called them.

3 Q. And how do you know that?

4 A. Um, I had a conversation with Elizabeth Todd who
5 forwarded the names. They were well-knows to her. She
6 gave them to Katie, and she asked Katie multiple times
7 if she had reached out to those nurses. Then she
8 actually saw some of the individuals and asked those
9 individuals, and they said they'd never been contacted
10 by HR or by Katie?

11 Q. Do you know what, if any -- and what was Katie's
12 position or is her position?

13 A. Katie's the head nurse for OB/GYN.

14 Q. Did you have a good working relationship with her?

15 A. Initially.

16 Q. Well, when was it no longer a good working
17 relationship?

18 A. When I was encouraging her to move forward with
19 the multiple nursing complaints about David.

20 Q. What timeframe was that?

21 A. I don't recall.

22 Q. And what was her response?

23 A. Initially, her response was, "I've spoken with
24 Leslie, and nothing is moving forward".

25 Q. Do you know when that was?

1 A. No.

2 Q. Do you know what efforts were undertaken
3 internally to recruit nurses to the REI division based
4 on this sequence of emails?

5 A. Clarify your question.

6 Q. Well, do you know what actual undertakings
7 commenced in and around this timeframe to hire either
8 one or two additional nurses in the REI division?

9 A. Initially, there was a nurse recruiter that was
10 brought to our team meeting to, to talk to us about
11 recruiting someone. In the short-term, she left the
12 institution, and, and the recruitment was dropped, at
13 least temporarily.

14 Q. So, so the internal recruiter for D-H left D-H?

15 A. Well, clarify what you mean by internal.

16 Q. Somebody that was a D-H employee that was
17 recruiting as opposed to an external recruiter.

18 A. There was a, there was a person brought in -- I'm
19 not certain where her pay stub was from, if it was for
20 D-H or if it was an outside source -- to recruit nurses
21 to the organization, and our, initially our position
22 was on the list of many nursing positions that needed
23 to be filled.

24 Q. Overall, was there a nursing shortage in general
25 in this area of New Hampshire?

1 A. Overall, there's a nursing shortage in general in
2 many places in the country.

3 Q. Well, does that include New Hampshire?

4 A. Yes.

5 (Deposition Exhibit 10 marked.)

6 Q. Showing you a document that's marked Exhibit 10.
7 It is an email communication. It's two email
8 communications. One at the bottom is from you to
9 Heather Gunnell. You mentioned this before about the
10 fact that there was an email that you were involved in.
11 Is this the email you were talking about regarding a
12 critical shortage of skilled and trained nursing?

13 A. That's probably one of them, yes.

14 Q. Okay. So you've sent more than one, you believe?

15 A. I, I don't recall.

16 Q. You mentioned that it's at a time when our program
17 is in decline. What did you mean by that?

18 A. Um, that we had patients leaving more frequently
19 than they had in the past, that we had fewer providers
20 than we'd had in the past.

21 Q. What's the basis for your belief that more
22 patients were leaving at that point?

23 A. Conversations I had with the secretary,
24 conversation I had with the nurses.

25 Q. Right. Because you, you were actually out of work

1 from August to that particular date, November 4th,
2 right?

3 A. As the interrogatories say for dates.

4 Q. I'm right about that, though, right?

5 A. I've answered that question.

6 Q. Well, do you have a specific recollection of that
7 being your first day back?

8 A. I do not.

9 Q. Here you say in your email dated November 4th
10 2016, quote, "To this end, we need to investigate the
11 use of Sharon at least part time. She, herself, has a
12 family illness with her mother's recent diagnosis of
13 lung cancer. She will need to be more present and
14 available to her parents".

15 So you agreed with Leslie DeMars's position that,
16 obviously, she was going to have to deal with her
17 parents, correct, and assist in the care of her mother,
18 right?

19 A. I don't believe in, I don't believe in Leslie's
20 assessment, no.

21 Q. Well, you understood that, based on what you're
22 saying here, that Sharon would need to devote at least
23 some of her time to dealing with her mom's recent
24 diagnosis of lung cancer?

25 A. I believe her, she was going to need to help her

1 mother --

2 Q. Right.

3 A. -- yes.

4 Q. Right, yeah. You pointed that out in this email,
5 right?

6 A. Correct.

7 Q. And that she'd need to be more present and
8 available to her parents, correct?

9 A. Correct. But I don't agree with Leslie's
10 summation.

11 Q. And what was Leslie's summation in your, in your
12 mind?

13 A. I believe Sharon, as an individual, can make the
14 decision on her own about how much she wanted to work
15 and teach and how much she wanted to be available for
16 her parents.

17 Q. Well, you had told me that Sharon retired in
18 December 2016, correct?

19 A. I believe so.

20 Q. It was December 2nd. We can go back to your
21 calendar to reflect the retirement date, but it was in
22 December of 2016 and that she'd been strung along for a
23 couple months thinking that she might be able to come
24 back and that Heather and Katie Mansfield told her that
25 she could come back, correct?

1 A. At least six months she was strung along.

2 Q. Right. Yet the email from Heather Gunnell to,
3 right above that says to David Seifer and Leslie
4 DeMars, "There may be a loophole in the retirement
5 restrictions. The RIF process made it clear that
6 retired employees returning per diem was no longer an
7 option", and you believe, despite her saying this on
8 November 7th, that she was saying something different
9 to Sharon?

10 A. No. I believe she said that to Sharon. The two
11 are not mutually exclusive. I'm aware of other
12 employees who'd come back in that timeframe.

13 Q. Okay. And you mentioned one of them, correct?

14 A. Yes. Or had come back under similar
15 circumstances. And, in fact, I pointed that out to
16 Heather and Leslie, that D-H had allowed it previously
17 where there was a critical shortage.

18 Q. Do you know how long before that that that had
19 happened?

20 A. I don't recall.

21 Q. Who's Judy McBean?

22 A. She's a reproductive endocrine who practices in
23 Brattleboro.

24 Q. With you consider her a friend?

25 A. Define friend.

1 Q. You tell me.

2 A. I'm asking you.

3 Q. Well, something more than a personal acquaintance.

4 A. Yes.

5 Q. You stay in touch with her?

6 A. Intermittently, yes.

7 Q. Okay. How do you define friend?

8 A. There are different levels of friendship.

9 Q. What level was she?

10 A. She's a friend that I talk to once a month,

11 perhaps more frequently sometimes. Sometimes I didn't

12 talk to her at all. Sometimes I see her for dinner

13 every six months or so.

14 Q. When is the last time you spoke to her?

15 A. Last month.

16 Q. When is the last time you spoke to her about, if

17 at all, about your case, anything relating to it?

18 A. People have had their own experience of this, Mr.

19 Schroeder, and she knows the case is ongoing.

20 Q. My question is, When is the last time you spoke to

21 her, if at all, about your case?

22 A. I don't recall.

23 Q. Well, when you did, did you speak to her about

24 your case?

25 A. I told her we were filing, yes.

1 Q. Have you spoken to her specifically other than you
2 told her you were filing? Have you had any specific
3 conversations about your case?

4 A. Not the details of it.

5 Q. What, if any, knowledge would Judy McBean have
6 about the IVF program and the REI division and its
7 functioning in your mind?

8 A. She worked there. She'll have her own opinion
9 from the time she worked there.

10 Q. And when was she working in the REI division?

11 A. Over the course of several years.

12 Q. Did that include 2016 and 2017?

13 A. I believe so.

14 (Deposition Exhibit 11 marked.)

15 Q. Okay. Showing you a document that's been marked
16 Exhibit 11, it's a series of email communications,
17 DH4538 through DH4539, and the bottom one is April 27th
18 2017. It, it's sent from Heather Gunnell, but it's
19 sent on behalf of Dr. DeMars, and it states, quote, "As
20 you all know, we have a critical staffing issue in REI.
21 Our obligation is to provide safe, high-quality care to
22 our patients". It goes on to say that a series of
23 things.

24 What did you -- what was your understanding that
25 this email from Dr. DeMars meant in terms of the

1 sustainability of the REI division at that point in
2 time?

3 (Brief pause.)

4 A. Can you rephrase your question?

5 Q. Sure. Based upon this email from Dr. DeMars, what
6 did you understand? Did you understand that there was
7 a critical shortage of nurses at that point in the REI
8 division?

9 A. I understand, I understood there was a critical
10 shortage of nurses, yes. I also understood there were
11 solutions to that shortage.

12 Q. As a result of the shortage, did you understand
13 that this would have an impact upon the services that
14 would be provided on a more limited basis in that
15 timeframe?

16 A. Yes.

17 Q. One of those things would be deferring new
18 infertility evaluations, right?

19 A. Correct.

20 Q. And then there would be, the remaining patients in
21 May and July would be under review during that
22 timeframe, correct?

23 A. Correct.

24 Q. What does it mean when it says -- what does this
25 phrase mean: Quote, "We will complete evaluations of

1 patients who are in the process of their infertility
2 evals, follow-up visit testing, et cetera, but they
3 will not be given a timeframe or a date for an ART
4 cycle including IUI". What does that mean?

5 A. We will be -- we will complete evaluations for
6 patients who are in the process of their infertility
7 evaluation. So tests that were ordered, we'll go
8 through with. We will complete their follow-up visits,
9 the testing, etc., but not to give them a date or
10 timeframe for their ART, assisted reproductive
11 technology, cycle including intrauterine insemination.

12 Q. So in layman's terms that would be going forward
13 with either an embryo transfer or other IVF example of
14 assisting in people having kids at that point, right?
15 You're doing the testing and the evaluation, but you
16 weren't going to go forward with the actual procedure?

17 A. Well, there were already cycling patients, so we
18 were in treatment already, and then we had patients who
19 were coming in for testing. Any new patients who
20 hadn't already been cycling, she asked us to defer
21 giving them calendars, but there are already people
22 cycling.

23 Q. Right, but these people, the completing
24 evaluations who are in the process, we're not
25 necessarily going to put them through the cycle?

1 A. Correct.

2 Q. Okay.

3 A. But there were already patients who had calendars.
4 That's what this email doesn't address.

5 Q. Explain to me what you mean by that.

6 A. You're given a calendar for your treatment of when
7 you expected your period to start, when do you expect
8 to start medications, when your ultrasounds are, when
9 your blood work should be done, when your anticipated
10 embryo transfer date would be, or what week your
11 retrieval might be. And so there was a group of
12 patients who were actively cycling, there's a group of
13 patients who already had their calendars and their
14 promised dates for treatment, and then there were
15 people who were coming in in earlier part of the
16 process.

17 Q. And you're saying that didn't address the people
18 with the calendars already set up?

19 A. Correct.

20 Q. What happened to the individuals who had their
21 calendars set up at that point but -- like, what
22 happened as a result of this memo?

23 A. I don't know.

24 Q. Do you know how many people that had their
25 calendars already set?

1 A. Not off the top of my head, no.

2 Q. Did you have any specific patients of your own who
3 had their calendars already set that it didn't go
4 forward?

5 A. Yes.

6 Q. In this timeframe, correct?

7 A. Yes.

8 Q. When Marlene -- and this is actually right after
9 Marlene has given her notice in the Manchester office,
10 correct?

11 A. I don't remember the date specifically. I think
12 so.

13 Q. And you'd sent an email communication to Beth Todd
14 on April 18th 2017 stating that, "Navid just texted me
15 that Marlene has given two weeks' notice".

16 A. What was the date on that again?

17 Q. April 18th 2017.

18 A. All right.

19 Q. So this is, you know, about nine days later.

20 A. Yes.

21 Q. So Marlene is out. At that point, were you no
22 longer stop -- had there been a decision to stop
23 providing services out of Manchester, since there was
24 no nursing support there?

25 A. Um, what services are you referring to?

1 Q. Well, REI-related, IVF-related services.

2 A. I understood there wasn't going to be specific
3 nursing-related duties, but I'm not clear whether or
4 not the clinics were canceled, since we were still
5 allowed to do evaluations and workup.

6 Q. Okay. But, without a nurse assigned to
7 Manchester/Bedford, would you be able to even do the
8 clinics?

9 A. Yeah, oh, yeah. It's a flow nurse.

10 Q. What's that?

11 A. It's a nurse that just puts patients in a room,
12 and it's a flow nurse.

13 Q. Now, what did you understand -- shifting gears to
14 another topic. What did you understand the reasons to
15 be for the closure of the REI division as they were
16 communicated to you?

17 A. I didn't understand that we were closing.

18 Q. Well, what was, what was communicated to you on
19 May 4th 2017?

20 A. On May 4th, that the REI division would be closing
21 and the lab would be staying open, but that was the
22 first time I'd heard that.

23 Q. And how, how did you receive notice of that?

24 A. I walked into a meeting with Dr. Merrens, someone
25 from HR, Leslie, David, Albert, and Elizabeth Todd.

1 Q. And was that who made the announcement to all of
2 you?

3 A. Leslie read a statement.

4 Q. And how long was that meeting?

5 A. Short.

6 Q. Was there any Q-and-A?

7 A. No. Maybe, it may have been that David asked a
8 question about the residency.

9 Q. It was a short meeting, and that is the first
10 time, that was that the first time, as far as you know,
11 that any of you, you, David, Albert, and Elizabeth
12 Todd, were informed that the REI division was being
13 closed?

14 A. Leslie had told me that the division was going to
15 be paused, not that it was going to be closing up.

16 Q. When did she tell you that?

17 A. Starting in the winter, late winter, early spring
18 of that year.

19 Q. And where did that conversation happen?

20 A. I had multiple meetings with her.

21 Q. Well, what was the basis of those meetings?

22 A. Discussing the REI service, discussing the
23 providers, discussing my concerns. There was many
24 things. She told me that the division was going to be
25 paused, not that it was going to be closed, and, in

1 fact, the day before she told me that the division
2 would be opening back up.

3 Q. Day before May 4th?

4 A. Yes.

5 Q. What did she say in that regard?

6 A. She said, "We will be opening back up".

7 Q. Did she have a timetable?

8 A. No.

9 Q. What did you say during that conversation?

10 A. "What if they don't let you open back up?"

11 Q. What did she say?

12 A. "I've drawn a very definitive line in the sand
13 that, if they don't let us open back up, I'm quitting".
14 In conversations I had with her before that, she had
15 told me the division was going to pause.

16 Q. And do you know whether she shared that
17 information with anyone else, the issue of the division
18 being paused, with any other members of the REI
19 division?

20 A. No, I don't know.

21 ATTORNEY VITT: Take a quick break? Be right
22 back.

23 ATTORNEY SCHROEDER: Yeah.

24 (A recess was taken from 2:39 p.m. to 2:42 p.m.)

25

1 BY ATTORNEY SCHROEDER:

2 Q. So, with respect to your conversations with
3 Dr. DeMars, did you, after the announcement that the
4 REI division was going to be closed, did you have any
5 follow-up conversations with Dr. DeMars in and around
6 that timeframe regarding the REI division being closed?

7 A. Yes.

8 Q. And what was the nature of those conversations?

9 A. She told me that she was going to meet with Ed
10 Merrens and that there was a move to keep me.

11 Q. When you say a move to keep you, what do you
12 understand that to be? Was it her move, or was it
13 somebody else, or was it a combination of people?

14 A. It was a combination of people.

15 Q. And who would that be?

16 A. There were multiple people.

17 Q. Well, let me know who they are.

18 A. Chris Dravine, Emily Baker, Katrina Henson,
19 Deborah Bierenbaum, Michelle Russell, Rebecca Breshear.

20 Q. Did group include Leslie DeMars as well?

21 A. At that time, I thought it did.

22 Q. At what point did it, did your belief change that
23 it perhaps did not include Leslie DeMars?

24 A. When I saw the emails that initially you declined
25 to release.

1 Q. What are you talking about? Emails produced in
2 this case?

3 A. Yes.

4 Q. Oh, so, as a result of reviewing those emails, it
5 changed your opinion as to whether or not Leslie was
6 supporting you being retained?

7 A. Yes.

8 Q. How many conversations did you have with Leslie in
9 that timeframe, May, June, July, August, regarding the
10 REI division closure and whether or not you would be
11 retained?

12 A. One, To my knowledge.

13 Q. The one that you just referred to?

14 A. Yes.

15 Q. Did you have any email communications or text
16 messages with Leslie DeMars in that timeframe regarding
17 this same subject?

18 A. I texted her to see if she would meet, and she
19 left a phone message on my phone saying that she would.

20 Q. Saying that she would or would not?

21 A. Would.

22 Q. Okay. Did that happen?

23 A. No.

24 Q. When was the last time you spoke to Leslie DeMars
25 either in person, over the phone, or by text?

1 A. In that meeting that I referred to earlier.

2 Q. You just said you didn't have that meeting.

3 A. It's, I spoke with her on the sidewalk. No, not
4 that meeting. The, the one that I talked to before.

5 Q. Oh, where the discussion you had with her about an
6 effort to retain --

7 A. Yes.

8 Q. -- you? Okay. And that discussion with her
9 happened do you know when?

10 A. Yeah, between May 4th and my last day.

11 Q. And do you know what whether or not she met with
12 Ed Merrens and what transpired during that meeting?

13 A. I know I submitted a letter requesting that D-H
14 retain me and that that was declined, and I was told by
15 Amy Giglio that there was going to be a meeting.

16 Q. Amy Giglio said there would be a meeting?

17 A. Yes.

18 Q. When did she say that?

19 A. When, right after I submitted the letter
20 requesting that they retain me.

21 Q. Did you, did you met -- you met with her, correct?

22 A. I met with her, yes.

23 Q. And what did you discuss during that meeting in
24 late May?

25 A. A variety of things including, but not, not

1 exhaustive list, benefits, when I could expect a
2 response from D-H. That was mostly what it was.

3 Q. Did you, during that meeting with Amy Giglio, ask
4 for more severance?

5 A. I told her that what was offered was not adequate.

6 Q. And what was offered?

7 A. I don't remember exactly, but it was a nominal
8 amount for my years of service.

9 Q. It was six months, right?

10 A. Not initially, I don't believe.

11 Q. Do you recall whether or not D-H increased that
12 offer?

13 A. Which offer are you referring to?

14 Q. The severance offer.

15 A. There was a nominal amount that was offered
16 initially, and it was barely altered in the subsequent
17 documents that were mailed to me.

18 (Deposition Exhibit 12 marked.)

19 Q. So I'm showing you a document that's been marked
20 Porter Exhibit 12. Is that the letter that you sent to
21 HR in late May 2017?

22 A. Yes.

23 Q. Okay. I want to just walk you through the letter
24 and start on the first page. So you had, it looks
25 like, four points that you wanted the hospital to

1 reconsider, correct, on that first page?

2 A. Yeah.

3 Q. Is that right?

4 A. I'm going to take a minute to read it --

5 Q. Yeah, please do.

6 A. -- if you're asking a specific number of points.

7 (Brief pause.)

8 Q. Have you a chance to review the letter?

9 A. I had a chance to review it, yes.

10 Q. Okay. I want to go back first to the conversation
11 on May 4th where you said Leslie DeMars read a
12 statement. Do you recall what she said about the
13 closure of the REI division during that meeting?

14 A. Not specifically, no.

15 Q. Did Dr. Merrens say anything?

16 A. Not while she was reading the statement, no.

17 Q. Well, did he say anything during the meeting?

18 A. While she was present?

19 Q. Yes.

20 A. I don't recall.

21 Q. Did you receive information during that meeting as
22 to the reasons why the REI division was being closed?

23 A. Not fully, no.

24 Q. Well, what did you receive, even if it wasn't
25 fully?

1 A. An announcement that we were going to be closing.

2 Q. Was there any discussion during that meeting about
3 the reasons why it was being, the REI division, was
4 being closed?

5 A. Not a thorough discussion, no.

6 Q. I understand it was not a thorough discussion.
7 Was there any discussion about the reasons why the
8 division was being closed?

9 A. Not a discussion of all the reasons, no.

10 Q. I understand not all the reasons. I want to know
11 what reasons, if any, were discussed. You said not all
12 the reasons, so there must have been some reasons that
13 were discussed.

14 A. Well, there were reasons given that I didn't agree
15 with.

16 Q. This isn't a question related to whether or not
17 you agree with something. It's whether or not it was
18 stated to you, so whether or not you were given reasons
19 during that meeting.

20 A. There was a statement read by Dr. DeMars about the
21 closure.

22 Q. Right. And what were the reasons that you
23 understood, even if you didn't agree with them?

24 A. I don't recall the detail.

25 Q. You don't have a recollection?

1 A. Not right now.

2 Q. Can you go to Exhibit, please leave that out, and
3 then pull out Exhibit 4, which is the Amended
4 Complaint?

5 A. Which one, the letter?

6 Q. Yeah, leave the letter there, but then Exhibit 4,
7 which is the Amended Complaint. There it is. There it
8 is.

9 A. Okay.

10 Q. So just go to Page 27. Okay. At the bottom
11 there, Paragraph 84 says, "On May 4, 2017
12 Dartmouth-Hitchcock issued a public announcement that
13 it would close the REI division as of May 31 2017",
14 right?

15 And then Paragraph 85 says, "Dartmouth-Hitchcock's
16 administrators have given a series of explanations why
17 they decided to close the REI division and fire all of
18 the physicians who work there, including that the right
19 staff could not be provided by Dartmouth-Hitchcock for
20 a service that required 24/7 coverage, that declining
21 birth rates were somehow responsible for the decision
22 to close the division, and that there were personality
23 problems and the doctors could not get along". Did I
24 read that accurately?

25 A. Yes.

1 Q. Does that refresh your recollection of the reasons
2 that were given by D-H regarding the closure of the REI
3 division?

4 A. This is the public announcement and discussion
5 that had and explanations that came. You asked me in
6 the meeting do I remember the exact reasons, and my
7 answer is no.

8 Q. All right. Does this refresh your recollection as
9 to whether any of these reasons were identified during
10 that meeting on May 4th 2017?

11 A. Staffing issue.

12 Q. And was that related to the nursing shortage?

13 A. It's the alleged nursing shortage, Mr. Schroeder.

14 Q. What, what's the basis for you to say "alleged
15 nursing shortage" in light of the fact that you just
16 testified less than an hour ago that there was a
17 nursing shortage in April of 2017?

18 A. I testified that D-H did not post the positions
19 properly. They did not call nurses who were interested
20 in the position. I testified that there were nurses
21 within the division who had more interest in working
22 more. I testified that Sharon Parent was interested in
23 coming back.

24 Q. You also testified that there was a critical
25 shortage of nurses at that point in April of 2017.

1 A. It was pretext. It was pretext.

2 Q. I asked you whether Leslie DeMars's statement that
3 there was a critical nursing shortage, staffing
4 shortage at that point in April, end of April 2017,
5 whether you agreed with that, and you said yes.

6 A. There was.

7 Q. Right, okay.

8 A. But there were, and there were multiple reasons
9 why that critical shortage came about.

10 Q. I understand that. Regardless of the reasons why,
11 the fact of the matter was there was a shortage at that
12 given point, right?

13 A. Rephrase your question, please, Mr. Schroeder.

14 (Question read by the reporter:

15 Q. I understand that. Regardless of the
16 reasons why, the fact of the matter was there was
17 a shortage at that given point, right?")

18 THE WITNESS: There was a shortage, and it
19 was a manufactured shortage.

20 BY ATTORNEY SCHROEDER:

21 Q. And what was the basis for you to say that? You
22 used the word "pretext". What were you referring to?

23 A. It was a manufactured shortage. It was the stated
24 reason, but there were a lot more reasons.

25 Q. What are the other reasons that you believe?

1 A. I believe that it was not Leslie's intent to close
2 the division permanently, as she told me the day
3 before.

4 Q. Do you know whether or not it was up to her?

5 A. I believe she had a voice.

6 Q. Okay. And that was -- so you don't believe that
7 it was Leslie's intent to close the division. Any
8 other reasons that you think are pretextual related to
9 the closure of the REI division?

10 A. There's an email where she states we would have
11 had to fire Albert and David for cause.

12 Q. What do you mean by that?

13 A. That D-H would have had to fire Albert and David
14 for cause.

15 Q. If they didn't close the division?

16 A. Yes.

17 Q. So do you think one of the reasons why the
18 division was closed was to avoid firing them for cause
19 and, instead, firing them because they closed the
20 division?

21 A. Yes.

22 Q. Any other reasons?

23 A. Yes. That there were financial constraints, and
24 Leslie had a budget that she needed to meet, and she
25 had to combine services from Alice Peck Day.

1 Q. What's that?

2 A. It's a community hospital.

3 Q. So you believe one of the other, that the real,
4 one of the real reasons for closing was because of the
5 budgetary constraints and financial issues that Leslie
6 had to deal with?

7 A. No, I don't believe that's the real reason.

8 Q. Well, you just stated --

9 A. You asked me what the possibilities are or what
10 the other beliefs.

11 Q. I'm asking you what you believe the real reasons
12 were.

13 A. That they needed, that Albert and David were going
14 to be fired, and it was easier to close the division
15 than it was to fire them by, for cause.

16 Q. Any other reasons you think that motivated the
17 decision to close?

18 A. I will stick with that one for now, and I will
19 amend my conversation later.

20 Q. Well, here's what I will tell you.

21 A. I'll leave it open.

22 Q. You can't leave it open. If you, if you forget
23 something and you want to clarify it later, that's
24 fine, but you can't, after the fact, supplement the
25 record on your own without answering the question as

1 clearly and concisely as you can right now.

2 A. I'm answering honestly, Mr. Schroeder.

3 Q. I understand. That's what I want you to do.

4 You're under oath --

5 A. Yes.

6 Q. -- okay? So what I want to know are what are the
7 other -- one of the primary bases for your case, your
8 case is that the closure of the REI division, you
9 believe, shouldn't have happened --

10 A. Correct.

11 Q. -- right? And so I'm asking you what you believe,
12 what you personally believe are the real reasons behind
13 that, and you've given me one. It was in order to
14 avoid having to fire Albert and David, Albert Hsu and
15 David Seifer for cause, and this was an easier way to
16 do it than firing them for cause. I understand that.

17 What I'm asking you is what other reasons you
18 believe motivated the decision to close the REI
19 division.

20 A. That's, I think there were, that was the, the
21 major reason that I have evidence for today.

22 Q. And are you aware of any documents, email
23 communications, text messages, conversations which
24 support your belief that this was, the division was
25 being closed in order to avoid having to fire Albert

1 and David for cause?

2 A. Yeah, there's the email from Leslie.

3 Q. What email is that?

4 A. One of the ones you declined to release that I've
5 seen recently.

6 Q. Yeah, let's try to avoid characterizing what's
7 been produced and not produced in the case. You've
8 seen an email communication?

9 A. Yes.

10 Q. Okay. And it's from Leslie DeMars to whom?

11 A. I don't remember.

12 Q. And does that email communication relate to
13 actually firing you as well?

14 A. I don't recall if it has more about firing me or
15 not. It may.

16 Q. In fact, it actually has to do with firing all
17 three of you, right?

18 A. I remember the exact statement, or I remember the
19 statement -- I won't say exact -- that we would have
20 had to fire David and Albert for cause.

21 Q. All right. Let's go back to this letter real
22 quickly. On the first page you identify the first
23 reason to reconsider is the fact that you spend a high
24 percentage of your time performing other important
25 services not related to the IVF program or to the REI

1 division, correct?

2 A. Correct.

3 Q. So, by stating that, are you basically
4 acknowledging the fact that you weren't really doing
5 much in the REI division at that point?

6 A. No, that's not what I'm stating.

7 Q. Well, it's saying you spend a high percentage of
8 your time performing other services. Well, at that
9 point, a high percentage of your time, you're only
10 working 15 to 20 hours a week, and, if a high
11 percentage of your time is nonREI-related, aren't you
12 minimizing the REI division by saying that?

13 A. Can you rephrase your question, please?

14 (Question read by the reporter:

15 "Q. Well, it's saying you spend a high
16 percentage of your time performing other services.
17 Well, at that point, a high percentage of your
18 time, you're only working 15 to 20 hours a week,
19 and, if a high percentage of your time is
20 nonREI-related, aren't you minimizing the REI
21 division by saying that?")

22 THE WITNESS: No.

23 BY ATTORNEY SCHROEDER:

24 Q. You don't believe you are?

25 A. No.

1 Q. Now, the second reason is you tried to draw a
2 distinction between yourself and Albert Hsu and David
3 Seifer, correct?

4 A. Correct.

5 Q. You make mention throughout the letter that there,
6 that you were not, there was no basis to terminate you
7 for cause, correct?

8 A. Correct.

9 Q. No one at any point actually did terminate you for
10 cause, correct?

11 A. Correct.

12 Q. And, in fact, during the May 4th 2017 meeting and
13 even thereafter, you were never informed that you were
14 being terminated for cause?

15 A. Correct.

16 Q. The third reason is you believe it interrupts,
17 terminating your employment, interrupts your progress
18 with respect to your recovery, correct?

19 A. Correct.

20 Q. Now, at that point, how many more proctored
21 surgeries did you need to meet in order to regain the
22 right to go into the OR independently?

23 A. It wasn't -- initially, Dr. DeMars gave me three
24 majors, and at the end it wasn't an absolute number
25 that was set. It was -- I had at least one or two

1 more, I believe.

2 Q. Okay. The fourth point you raise is, "The
3 termination does not recognize rights to which I'm
4 entitled as a long-time senior employee". What did you
5 mean by that?

6 A. I was a voting member of Hitchcock.

7 Q. What is that? What does that mean?

8 A. When I was first hired in 1996 into Hitchcock
9 Clinic, all new providers have to go through a five- to
10 six-year vetting process by which anyone in the
11 institution and your department can submit comments,
12 and then you'd go before the voting membership and the
13 board, and I was approved as a senior member after that
14 timeframe.

15 Q. What rights, if any, do you believe that entitled
16 you to at this point in time?

17 A. It wasn't clear to me, but what was clear is that
18 I wanted the communication that I had gone through that
19 process and I was a senior member.

20 Q. Are you aware of any document that entitles you to
21 any specific rights as a senior member?

22 A. Not at this time.

23 Q. You mentioned further in your letter that, "Within
24 the last six months, Dr. DeMars and I have discussed a
25 role for me within the D-H organization that would

1 focus on a quality improvement for GYN ultrasound for
2 the entire D-H health network". What you were talking
3 about there?

4 A. She offered me and made me the vice -- I can't
5 remember the exact title at this point, but it was,
6 appointed me the head, within OB/GYN, the head of GYN
7 ultrasound for the D-H healthcare network.

8 Q. I'm sorry. The head of?

9 A. GYN ultrasound.

10 Q. What did that entail?

11 A. We had initial conversations, but the
12 conversations included improving quality of care
13 delivered in Manchester and Nashua with the general
14 OB/GYNs reading ultrasound, helping to improve the
15 quality of the actual ultrasounds being performed,
16 doing some education for providers and for ultrasound
17 techs, and we had talked about starting an early
18 pregnancy monitoring unit and ovarian tumor analysis
19 group for both research and improving quality of care.

20 Q. How many conversations did you have with
21 Dr. DeMars about this potential role?

22 A. Many.

23 Q. Did you actually put together a job description,
24 or was there any kind of formality other than the
25 conversations you had with Dr. DeMars?

1 A. No. She announced it at a meeting.

2 Q. What did she announce at the meeting?

3 A. That Rebecca Breshear was going to be head of OB
4 ultrasound and I was going to be head of GYN
5 ultrasound.

6 Q. Rebecca?

7 A. Breshear.

8 Q. Was she in the REI division?

9 A. No.

10 Q. Was she OB/GYN?

11 A. She's a high-risk obstetrician.

12 Q. When was this?

13 A. Since she became chair.

14 Q. Well, she'd become chair, like, two years earlier,
15 right?

16 A. Sometime in that timeframe.

17 Q. Okay. So not in -- sometime prior to the middle
18 of 2016?

19 A. Sometime prior to Dr. Seifer beginning his
20 clinical work, I believe.

21 Q. He came on board and started clinical work July of
22 2016. So sometime before that?

23 A. Yeah, to my recollection.

24 Q. Now, you said that, in your letter, that you'd
25 been given, quote, "Conflicting information with

1 regards to the ability of Dr. DeMars to transfer me
2 from my current position to another division within the
3 Department of Obstetrics and Gynecology and the risk to
4 my current status on long-term disability".

5 ATTORNEY VITT: What page are you on? I'm
6 sorry.

7 ATTORNEY SCHROEDER: It's not marked.

8 ATTORNEY VITT: At the bottom?

9 ATTORNEY KRAMER: What's the Bates number?

10 ATTORNEY SCHROEDER: Oh, apologies. My copy
11 doesn't have Bates numbers.

12 ATTORNEY VITT: Oh, all right. Hold on.

13 ATTORNEY SCHROEDER: It's, you know what?
14 I'll tell you. It's the second-to-last page, so at the
15 back end.

16 ATTORNEY VITT: All right.

17 BY ATTORNEY SCHROEDER:

18 Q. What's the conflicting information that you were
19 given?

20 A. So can you please go back to the -- which
21 paragraph are you referring to?

22 Q. Sure. It's the second-to-last page. Sorry.
23 Okay? "I want to dispel" --

24 A. Yes, okay.

25 Q. -- so the second sentence there. What's the

1 conflicting information that you believe you'd been
2 given?

3 A. She told me.

4 Q. Who told you?

5 A. Leslie DeMars told me that she could not keep me
6 because it potentially compromised my disability, or it
7 would compromise my disability.

8 Q. At that point, you were on long-term disability
9 benefits?

10 A. Yes.

11 Q. And she believed that -- well, she said she'd been
12 told that it would compromise your entitlement to
13 long-term disability benefits?

14 A. Yes.

15 Q. Did you ever inquire as to whether or not a
16 different position would impact your ability to retain
17 your long-term disability benefits?

18 A. Yes.

19 Q. Who did you reach out to for that?

20 A. I hired an attorney from Boston.

21 Q. What's the name of that attorney?

22 A. Karen. I'm blanking on her last name.

23 Q. To the best of your recollection, you can't -- I
24 can get it later from you. I mean --

25 ATTORNEY VITT: Yeah, we have it. It's on

1 the tip of my tongue, and I'm sure we can provide it.

2 ATTORNEY SCHROEDER: That's okay.

3 BY ATTORNEY SCHROEDER:

4 Q. It seems that there was a condition attached to
5 this based upon your communications with counsel. I
6 don't want to get into what you discussed with counsel,
7 but you state here, as long as the position and
8 clinical duties are approved in advance by the Hartford
9 and Unum, you believe that you could continue on
10 disability as long as the disability continues to be
11 documented and approved by physicians, right?

12 A. That was what I was advised by my counsel.

13 Q. So there were a couple of conditions that you'd
14 have to meet in order for you to potentially be
15 transferred to another position?

16 A. That's what I understood.

17 Q. Okay. Do you have any -- and the decisions
18 regarding your LTD benefits, those decisions are made
19 by the Hartford and Unum, correct?

20 A. Whether or not I'm able to continue the benefits
21 is made by the Hartford and Unum in counsel of my
22 providers.

23 Q. Right. But it wouldn't be made by
24 Dartmouth-Hitchcock? Like, they don't have any ability
25 to weigh in on whether or not you get long-term

1 disability benefits?

2 A. That's not what I was counseled by Dr. DeMars.

3 Q. What do you mean, that you weren't counseled by
4 Dr. DeMars?

5 A. She told me that -- I asked her. In the
6 conversation I said, "Yeah, why didn't you keep me?
7 You could have", and she said, "No, because it risked
8 your long-term disability".

9 Q. Do you know whether or not she had any knowledge
10 of your LTD benefit policy?

11 A. She implied that she did.

12 Q. At that point, you determined that -- well, at
13 that point, you were still on long-term disability,
14 correct? You were still receiving your full --

15 A. Correct

16 Q. -- benefit? Okay. The decision as to whether or
17 not you receive long-term disability, though, that is
18 made by the Hartford and Unum, correct?

19 A. Yes, in consultation with my providers.

20 Q. Right. Because your providers would have to give
21 information about the nature of your condition to the
22 Hartford and Unum --

23 A. Correct.

24 Q. -- right? And, at that point in May of 2017, you
25 were scheduled to go back to the Mayo Clinic at the end

1 of May, correct?

2 A. Yes.

3 Q. And then was that for additional treatment?

4 A. Yes.

5 Q. And was that because you were still experiencing
6 symptoms?

7 A. Yes.

8 Q. Okay. And, with respect to going to the Mayo
9 Clinic, you went in May, late May to early June, and
10 you were out there for, was it, a couple weeks?

11 A. I believe just a week, ten days or so at that
12 point.

13 Q. And then do you recall having to go back out there
14 again?

15 A. Yes.

16 Q. And was that -- in one of your interrogatory
17 responses, you said that you were out there for
18 treatment at Mayo May 29th to June 13th 2017. Does
19 that --

20 A. Correct.

21 Q. -- seem correct? And then you were back out there
22 for another two weeks June 28th to July 11th, correct?

23 A. I believe so.

24 Q. And then you were out there again a third time
25 September 26, or you were out of work, you were

1 incapacitated and not working at all from September
2 26th to November 13th 2017?

3 A. Correct.

4 Q. And was the basis of those treatments -- did you
5 have another surgery in that timeframe in one of
6 those --

7 A. Yes.

8 Q. -- instances? Was that in the, the last time
9 period, September to November?

10 A. Yes.

11 Q. And was that an additional surgery on top of the
12 original surgery that you had?

13 A. It was an additional surgery.

14 Q. And what was the purpose of that surgery?

15 A. To repair a leak.

16 Q. So, the leak, was it a new leak, or was it the
17 original leak that just hadn't been fully fixed?

18 A. Can't know. They don't know.

19 Q. So they have no -- you don't know one way or the
20 other?

21 A. Correct.

22 Q. And were the treatments at the end of May for two
23 weeks and then at the end of June for two weeks, were
24 those blood patches?

25 A. Yes.

1 Q. Okay, all right. And, during that timeframe, you
2 were, you were on full disability because you weren't
3 able to work at all?

4 A. What timeframe are you referring to?

5 Q. September to November.

6 A. Yes.

7 THE WITNESS: Can we take a break?

8 ATTORNEY SCHROEDER: Yeah, that's fine.

9 (A recess was taken from 3:25 p.m. to 3:28 p.m.)

10 BY ATTORNEY SCHROEDER:

11 Q. After you had, you sent this letter, you had a
12 meeting with Amy Giglio, right?

13 A. I believe that was the sequence.

14 Q. And you testified to the fact that you went over
15 -- did you go over this letter in detail at that point?

16 A. No.

17 Q. Now, in this entire letter, you do not, at any
18 point, mention that you were being treated differently
19 on the basis of your disability, correct?

20 A. Yes.

21 Q. And you never use the words "discrimination" or
22 "retaliation", correct?

23 A. Correct.

24 Q. And, in the meeting with Amy Giglio on May 26th,
25 you never informed Ms. Giglio that you either believed

1 you were being treated differently on the basis of your
2 disability or that you were subjected to discrimination
3 or retaliation, correct?

4 A. I don't remember the full context of that
5 conversation.

6 Q. Well, do you remember any mention of the words
7 "discrimination" or "retaliation" or any words like
8 that?

9 A. I don't remember the detail of that conversation.

10 (Deposition Exhibit 13 marked.)

11 Q. Final exhibit for today. Now, do you -- this is a
12 document marked Porter Exhibit 13. Do you recall
13 receiving this document at some point?

14 A. Yes.

15 Q. And this was the revised separation package?

16 A. I believe so.

17 Q. And it would give you 36 weeks of your base pay,
18 correct, roughly 9 months of your base salary?

19 A. Subject to applicable taxes, withholdings, and the
20 context of the letter, yes.

21 Q. Well, I mean, it's wages, so it would, you'd be
22 subject to typical state and federal income taxes,
23 correct?

24 A. And the separation agreement, release agreement.

25 Q. Correct.

1 A. Right.

2 Q. Right. But the, do you recall that, in this
3 context, that your initial severance pay allocation was
4 six months and then it was increased to nine months?

5 A. I, I remember that it was initially shorter. Then
6 it increased.

7 Q. And then it was increased?

8 A. Yes.

9 Q. And is this your recollection, that it was about
10 nine months, or was nine months --

11 A. Yes.

12 Q. -- 36 weeks?

13 A. Yes.

14 Q. Did you receive this during that meeting on May
15 26th, or was there any mention of it, that it would be
16 coming?

17 A. No.

18 Q. Now, in conjunction with your receipt of severance
19 for nine months, did you also understand that you would
20 be able to continue your health insurance because you
21 were still on long-term disability?

22 A. Actually, Amy initially told me that I would not.

23 Q. You would not what?

24 A. She told me that I would come off -- one of the
25 things that was the most emotional for me was that she

1 told me in that meeting that my family would have to go
2 on COBRA, and I carry all of my children, college and
3 grad student, my husband, and myself. She was
4 incorrect.

5 Q. Right. Because, actually, if you go to Page 719
6 here, it states, "Physician's benefits shall terminate
7 effective on the separation date, except that, to the
8 extent that physician remains approved for disability,
9 the physician will retain the status of an on-leave
10 employee during the term of that coverage", right?

11 A. That's what it says.

12 Q. Right. Well, you determined that. I'm assuming
13 you read this when you got it.

14 A. Yes.

15 Q. And so you determined that, as long as you were on
16 LTD benefits through Dartmouth-Hitchcock, that you
17 would still be eligible as if you were an on-leave
18 employee, and you would pay the employee portion of the
19 premium?

20 A. I had to pay the full portion. It was over a
21 thousand dollars a month, which may have been D-H, but
22 it was an increase in what I would have had to pay, but
23 she had told me that I would have to put my kids on
24 COBRA and my husband. It wasn't clear to me what my
25 status would be, and then this came through, and so I

1 did pay the premium for insurance for a period of time.

2 Q. And then, as a result, did you all stay on that
3 policy?

4 A. Yes.

5 Q. All right. Because I think now the policy allows
6 for up to 26 years old, I think --

7 A. Yes.

8 Q. -- can stay on a policy?

9 A. Correct.

10 Q. Okay. And, as a result of this being laid out
11 here, you were eligible to stay on the -- as a result
12 of being on long-term disability benefits through D-H's
13 policy, you could stay on the health insurance as well
14 during --

15 A. Correct.

16 Q. -- during that entire time?

17 A. Correct.

18 ATTORNEY SCHROEDER: Suspend for today, and
19 we'll resume at a mutually convenient date. Thank you.

20 ATTORNEY VITT: Okay.

21

22 (Whereupon at 3:36 p.m the deposition was suspended.)

23

24 * * * * *

25

1 I have carefully read the foregoing
2 transcript of my deposition given on Tuesday,
3 June 11, 2019, and the answers made by me are
4 true and correct.

5
6
7 -----
8 MISTY BLANCHETTE PORTER, M.D.

9 STATE OF _____
10 _____ SS.

11
12 At _____, in said
13 County, this _____ day of
14 _____, 2019, personally
15 appeared before me the above-named
16 MISTY BLANCHETTE PORTER, M.D. and made oath that
17 the foregoing answers subscribed by her are
18 true.

19
20
21 -----
22 Notary Public

23 My Commission expires:
24
25 -----
26

C E R T I F I C A T E

I, Sunnie Donath, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages, numbered 1 through 157, are a true and accurate transcription of my stenographic notes of the deposition of MISTY BLANCHETTE PORTER, M.D., who was first duly sworn by me on Tuesday, June 11, 2019 for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at Westminster, Vermont this 12th day of June, 2019.

Sunnie Donath, RPR, LCR